

CALIFORNIA COASTAL COMMISSION

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Filed: August 7, 2008
49th Day: September 25, 2008
Staff: Toni Ross-SD
Staff Report: August 27, 2008
Hearing Date: September 10-12, 2008

STAFF REPORT AND RECOMMENDATION ON APPEAL
SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Oceanside

DECISION: Approved with Conditions

APPEAL NO.: A-6-OCN-08-072

APPLICANT: S.D. Malkin

PROJECT DESCRIPTION: The construction of a 336-unit hotel, 48-unit fractional timeshares and 18,500 sq. ft. of visitor serving commercial on two blocks for a total of 2.76 acres located just inland of Oceanside Pier.

PROJECT LOCATION: Pacific Street between Seagaze Drive and Pier View Way, Oceanside (San Diego County).

APPELLANTS: The Citizens for Preservation of Parks and Beaches

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed.

SUBSTANTIVE FILE DOCUMENTS: City Resolution #08-R0020-03 approving the development, Downtown Oceanside Parking Study by Katz, Okitsu & Associates dated December 2002, Appeal form submitted by Citizens for Preservation of Parks and Beaches, City of Oceanside's certified LCP.

I. Appellants Contend That:

The proposed development is inconsistent with the policies of the certified LCP which pertain to public access and beach parking. The project as approved by the City requires the provision of 580 parking spaces to meet the needs of the development and the loss of existing public on-street parking pursuant to the parking requirements of the certified

LCP. The project itself is providing 540 parking spaces located in the two level subterranean parking structure on site. The remaining 40 required parking spaces will be located in a currently undeveloped off-site parking lot located along South Myers Street, between Tyson Street and Wisconsin Avenue. Of these 40 additional spaces to be constructed off-site, 33 of the spaces are replacement parking required for the loss of on-street public parking resulting from this development. The appellants contend that by allowing the 40 parking spots to be accommodated within this new public parking lot, the project is inconsistent with the certified LCP for two reasons. The first reason being that the parking spaces associated with the previously mentioned lot located at Tyson and Wisconsin are already necessary to address the impacts to loss of public parking associated with previous developments. The appellant further contends that there is no guarantee that the parking lot will be built as the City has not conditioned that parking lot be constructed prior to the operation of the hotel. Thus, the appellants contend that the project, as approved, would result in further negative impacts to public access, via the loss of public parking through cumulative impacts of various developments within the beach area. The City of Oceanside's Local Coastal Program (LCP) protects loss of public parking and requires that it be replaced on a one to one ratio within the beach areas of the City.

The appellants also include the overuse of the nearby transportation center parking lot as an aspect of their appeal. The appellants contend that currently the City is allowing private residential use of parking spaces that were funded for visitor-serving, transportation and/or commercial uses, and, as such, the City is allowing the improper use of a public parking lot. However, this project does not include any changes to the use or size of the transportation center parking lot nor does this project rely on parking at the transportation center, and as such, this issue is not relevant to this permit and it therefore will not be addressed by this appeal.

II. Local Government Action.

The City of Oceanside approved the proposed project with several special conditions on January 16, 2008. Special conditions associated with this permit address the operation of condominium hotel and fractional use time share units in accordance with the LCP (as recently amended) allowing these types of developments within this region of the redevelopment area (ref. Special Conditions 97, 104, 107, 108, 114, and 115 of Exhibit #3). Further special conditions were approved addressing water quality, mitigation for impacts to traffic, and a requirement for the development to include all mitigation measures required in the associated Environmental Impact Report (EIR). While the project was approved on January 16, 2008, the Notice of Final Action (NOFA) was not sent to the Coastal Commission until July 24, 2008 as the City chose to hold mailing the NOFA until after the LCP amendment that addressed this area was approved by the Commission. The Commission approved the LCP amendment at the August 2008 hearing. While the Commission approved the LCP amendment, it has not yet been effectively certified.

III. Appeal Procedures/Substantial Issue Analysis.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.

Section 30604(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date. If the Commission conducts the de novo portion of the hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. title. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

IV. Staff Recommendation On Substantial Issue.

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission determine that Appeal No. A-6-OCN-08-072 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:

The Commission finds that **Appeal No. A-6-OCN-08-072** does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

V. Findings and Declarations.

The Commission finds and declares as follows:

1. **Project Description.** The subject site consists of a two block area, approximately 2.75 acres bounded by Pier View Way on the north, Seagaze Drive on the south, Myers Street on the east, and Pacific Street on the west. The Beach Resort Project design is characterized as beach cottage-style architecture. The project will develop a total of approximately 420,000 sq. ft. of hotel/fractional timeshare, visitor-serving commercial and supportive uses on two blocks, the South Block (1.38 acres) and the North Block (1.38 acres). Specifically, the project includes 336 hotel units, 48 fractional units and 18,500 sq. ft. of commercial space. The northern block is currently vacant and the majority of the southern block is vacant; however, a portion of the southern block consists of several single-family residences, one of which is the historic Graves house (Top Gun House), which will be located on the northern block of this development, restored, and eventually integrated into the overall project design.

Northern Block: Development of the northern block will consist of up to 95 units, including a combination of hotel rooms and no more than 15% of fractional time share units along with a 5,881 sq. ft. restaurant, 4,036 sq. ft. of visitor-serving commercial space, to include a coffee shop and retail shops, in addition to the relocated 912 sq. ft. Graves house (ref. Exhibit #2). The northern wing is planned for fractional timeshare units and the southern wing is planned for a boutique hotel. The pool and terrace are located on the fourth floor of the connecting portion of the building. The retail shops would sell gifts and sundries, ice cream, baked goods, and such items appropriate for timeshare and hotel guests and the general public at this beachside location. The northern block is set back from the property lines by 15' in every direction. The northern block proposes a 23,000 sq. ft. public plaza with 1,926 sq. ft. of interior public amenities. The maximum height of this building is 90 feet. The project as approved by the City requires the provision of 580 parking spaces to meet the needs of the development and the loss of existing public on-street parking pursuant to the parking requirements of the certified LCP. The project itself is providing 540 parking spaces located in the two level subterranean parking structure on site. The remaining 40 required parking spaces will be located in a currently undeveloped off-site parking lot located along South Myers Street, between Tyson Street and Wisconsin Avenue. Of these 40 additional spaces to be constructed off-site, 33 of the spaces are replacement parking required for the loss of on-street public parking resulting from this development.

Southern Block: Development of the southern block will consist of up to approximately 289 units in a hotel with the guest rooms generally occupying the third through the eighth floors. The ground floor consists of a lobby, approximately 1,858 sq. ft. restaurant, lounge, approximately 280 sq. ft. gift shop, administrative offices and 15,000 sq. ft. of banquet/ballroom and meeting rooms (ref. Exhibit #2). A 7,200 sq. ft. spa is located on the second floor. The pool and 1,800 sq. ft. fitness center are located on the third floor. The southern block is set back approximately 10 feet on all sides and proposes 1,650 sq. ft. of open space and 9,300 sq. ft. of other public amenities. The maximum building height is 90 feet. Again, the overall project, including both the northern and southern blocks, requires the provision of 580 parking spaces. Five hundred forty parking spaces will be located in the two level subterranean parking structure on site and the remaining 40 required parking spaces will be located in a currently undeveloped off-site parking lot located along South Myers Street, between Tyson Street and Wisconsin Avenue.

The subject site topography is relatively flat, with less than a three-foot grade differential between the highest and lowest points of the site. The excavating associated with the construction of the two levels of underground parking will result in the exportation of approximately 113,000 cubic yards of soil.

The development will also include the construction of a new storm water discharge facility and storm water control devices, driveway improvements and new turning lanes and a stop light, to address the increase in traffic flow resulting from the approved development and its visitors. The development will also include a landscaped promenade for public use.

The development will result in the loss of 33 on-street public parking spaces. The City's LCP requires that any parking lost in the beach areas be replaced at a one-to-one ratio. The project requires 580 parking spots total, including replacement of the 33 lost on-street spaces. Of these, 540 will be accommodated on-site. The remaining 40 will be provided at a near-by off-site location. The 33 public parking spaces are included in this off-site lot.

Project Site History

In June of 2002, the Commission denied City of Oceanside's proposed LCP Amendment 1-2000. This amendment included modification to the Land Use Plan and Zoning maps to accommodate redevelopment of the subject site. The proposed Oceanside Beach Resort included a 400-room hotel with 545,509 sq. ft. guest accommodations; 12,200 sq. ft. retail shops, 6,400 sq. ft. restaurants, 9,400 sq. ft. meeting rooms; and 19,500 sq. ft. ballrooms; a public promenade and two levels of subterranean parking. The proposed development would have created an auto-free zone on Pacific Street between Seagaze Drive and Pier View Way through the closure of Pacific Street in this location. The Strand public road would have also been closed. The amendment was denied due to the scale of development and its impacts to public access, among other issues. The Commission gave the City direction to return with a project that would have fewer

impacts to coastal resources. The development subject to this appeal is the result of that direction. Further, the City and the Commission have been working together on a City Local Coastal Program amendment to allow for fractional use and condominium hotel components to be included in this development. The certification of that LCP amendment (LCP #2-08) is anticipated to be finalized in the coming months.

2. Public Access/Parking. The appellants contend that the project as approved by the City would result in impacts to public access through lack of public parking. There is a loss of 33 existing on-street public parking spaces as a result of this development. As required by the certified LCP, the project will require a total of 580 parking spaces. There will be 540 spaces built on site in two underground parking garages. The remaining 40 spaces will be provided at an off-site parking lot to be built by the City in the near future. The 33 lost parking spaces will be accommodated in this off-site parking lot located between Tyson and Oak just west of the railroad tracks (ref. Exhibit #5). The appellants contend that this raises two significant issues. The first being that the City is already deficient in public parking spaces in its downtown beach area and that the proposed off-site parking cannot provide parking spaces for this project, as the entire lot should be used to provide parking spaces already needed as a result of previous developments; namely the City's Movie Theatre and a mixed use condominium development (Ocean Palace). The appellants contend that, as such, the project is not replacing lost public parking at the LCP required one-to-one ratio and is therefore inconsistent with the certified LCP.

The second potential impact raised by the appellants is that the 40 spaces proposed to be accommodated off-site are not guaranteed to be completed prior to loss of the existing public parking spaces. As approved by the City, the applicant is required to provide their portion of the funding for the parking lot as a condition of their Coastal Development Permit (CDP). However, the CDP does not require the parking lot be completed by any specific timeline. Namely, the hotel can be completed and fully operational prior to the parking lot's construction, leaving those 33 public parking spaces not accounted for, and therefore, inconsistent with the certified LCP.

The appellants contend that in general, the City of Oceanside is playing a "shell game" with parking by deferring replacement of public parking and then using the constructed spaces for more than one project. The appellants also include the overuse of the nearby transportation center parking lot as an aspect of their appeal. The appellants contend that currently the City is allowing private residential use of parking spaces that were funded for visitor-serving, transportation and/or commercial uses; and, as such, the City is allowing the improper use of a public parking lot. However, this project does not include any changes to the use or size of the transportation center parking lot nor does this project rely on parking at the transportation center, and as such, this issue is not relevant to this permit and therefore will not be addressed by this appeal.

Because the project is located between the first coastal road and the sea, both the City's certified LCP and the public access policies of the Coastal Act are applicable. Sections 30210, 30211, 30212.5, 30213, 30221, and 30222 of the Coastal Act state:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5: Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against impacts, social and otherwise, of overcrowding or overuse by the public in any single area ...

Section 30213: Lower cost visitor serving and recreations facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

Section 30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided in the area.

30222: The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The City of Oceanside has numerous policies regulating public access and public parking in the beach areas and state:

Land Use Plan Policies

II. Recreation and Visitor Serving Facilities

10. The City shall continue to promote coastal tourism through the revitalization of the coastal area and upgrading of visitor amenities
11. The City shall evaluate methods for improving transient tax collection. Where possible, transient tax revenues should be used to upgrade or maintain public amenities used by tourists.
12. If existing beach parking is removed for any reason, one-to-one replacement parking shall be provided west of the railroad tracks.
13. Efforts shall be made to provide additional public beach parking facilities to serve anticipated future demand. Priority should be given for new parking facilities to serve the following locations:
[...]
In the Redevelopment Area at the following locations:

[...]
(3) First Street and Strand
(4) Pier and Strand
[...]
(7) Railroad and Tyson Street
(8) Railroad and Wisconsin Street
14. No new development on railroad right-of-way for any non-railroad operations purposes (other than public parking lots) shall occur until a Precise Plan for the area is approved by the Commission. Said plan shall include designation of parking areas in locations generally consistent with Land Use Plan Policy #13 and an implementation plan for the parking areas.
15. Because of high cost of land along the immediate shoreline, the City shall attempt to locate new parking facilities at lower-cost landward areas, and link those parking areas to the beach by pedestrian access, public transit, and beach area vehicular drop off points.
16. Since Oceanside beaches serve a recreational function for primarily non-local persons, the City shall seek funding assistance from State or County agencies for acquisition and construction of new parking facilities.
18. The City shall develop a contingency parking plan for the use of vacant lots and the railroad right-of-way during occasional peak overflows.

19. The joint use of parking facilities (night-only restaurants / downtown offices which are closed on weekends) which are idle during peak beach usage periods shall be encouraged.
20. The City shall provide incentives (such as free or reduced price parking) to encourage beach users to utilize remote parking facilities, thereby relieving congestion within the immediate beach area.
22. The City shall continue to monitor beach usage and parking availability and adjust policies as needed.
23. All beach lots shall be clearly signed and identified for public use.

VII. New Development and Public Works

1. The City shall deny any project which diminishes public access to the shoreline, degrades coastal aesthetics, or precludes adequate urban services for coastal-dependent, recreation, or visitor serving uses.

Implementation Plan Policies – Article 31 Off-Street Parking and Loading Regulations

3102 Basic Requirements for Off-Street Parking

- A. When Required. At the time of initial occupancy of a site, construction of a structure, or major alteration or enlargement of a site or structure, off-street parking facilities and off-street loading facilities shall be provided with the regulations prescribed in this article. For the purposes of these requirements, “major alteration or enlargement” shall mean a change in use or an addition that would increase the number of parking spaces or loading berths required by not less than 10 percent of the total number of required prior to the alteration or enlargement.
- E. Joint Use. Off-street parking and loading facilities required by this chapter for any use shall not be considered as providing parking spaces or loading berths for any other use except where the provisions of Section 3104: Collective Provision of Parking apply or a joint facility exists. Such a facility shall contain not less than the total number of spaces or berths as determined individually, subject to the provisions of subsection (G) below, or fewer spaces may be permitted where adjoining uses on the same site have different hours of operation and the same parking spaces or loading berths can serve both without conflict. A determination of the extent, if any, to which joint use will achieve the purposes of this chapter shall be made by the City Planner, who may require submission of survey data necessary to reach a decision.
- F. Location and Ownership. Parking required to serve nonresidential use may be on the same or a different site under the same or different ownership as the use

served, provided that parking shall be within the following distances of the use served, measured from the near corner of the parking facility to the public entrance of the use served via the shorted pedestrian route:

Customer/Visitor Spaces
200 ft.

Employee Spaces
400 ft.

G. Life of Facility. Facilities for off-street parking shall be restricted to that use by a recorded deed, lease, or agreement for a minimum period of 10 years from the date a zoning certificate requiring the parking is issued, provided that substitute parking facilities meeting the requirements of this chapter are provided. No use shall be continued if the parking is removed unless substitute parking facilities are provided.

The project as approved by the City includes a large scale hotel development on two blocks directly adjacent to Oceanside Pier. The project includes a portion of the units as limited use overnight accommodations; as approved, the facilities will include up to 25% of the units as fractional use or condominium hotel units. The development includes the construction of two restaurants, a pool, a large spa facility, a fitness center, various open spaces, and a ball room/banquet room that will be available to the public for special events and other visitor and hotel guest amenities. The project includes a landscaped promenade available to the public, which will provide views of the ocean and the pier.

The City is also amending their LCP as a result of this development, given that currently, limited use overnight accommodations are not a permissible use. After months of working cooperatively with the Commission, the LCP amendment was approved by the Commission with some modifications at the July, 2008 hearing. The LCP amendment is expected to be certified in the next couple months. One of the primary concerns addressed with the proposed LCP amendment was the high cost of the proposed hotel units. However, the City provided information that indicated their current stock of lower cost overnight accommodations far exceeded any other coastal community and as such this development did not represent a serious impact to the lower cost availability, but rather added to the range of affordability, within the City's hotel stock. Furthermore, included in the findings of the City's certified LCP in the section addressing public and commercial recreation, it was concluded that while there appears to be an adequate inventory of lower cost and moderate cost visitor accommodation on the beach, the City lacks a high quality tourist destination hotel in the beach area.

The project as approved by the City will result in the loss of 33 existing on-street public parking spaces. Both the EIR and the staff report indicate that the approved project will require 580 parking spots, 33 of which are to replace the loss of the existing on-street public parking. The hotel includes a two level underground parking garage that will supply 540 of the 580 required spaces. The 40 remaining parking spaces (33 for lost existing public parking and 7 required for the hotel development) will be located off-site. Both the City and the applicant have worked together to identify an appropriate location to facilitate the additional parking requirements. The City owns a portion of land located inland of the proposed development between Tyson and Oak just west of the railroad

tracks. As approved by the City, the applicant has been required to pay a certain amount of money to facilitate the construction of a public parking facility at this location.

The appellants contend that none of the proposed parking lot should be permitted to provide parking spaces for the hotel project because these public parking spaces have already been displaced in association with two previous developments: the Oceanside Movie Theatre and the Ocean II mixed-use development. The appellants contend that parking requirements were waived for these developments and, as such, have resulted in a deficiency in on-street public parking supply. The appellants contend that the City already has a deficiency in public parking spaces, and this city-owned lot could be utilized solely for public parking spaces. By allowing the hotel development to park 40 of their required parking spaces on the lot, the appellants claim that the project will be inconsistent with the policies certified in the City's LCP. Policy # 1 of the Development and Public Works section of the LCP requires that any project that diminishes access shall be denied. The appellants contend that by allowing the hotel to use city-owned land for parking requirements of a private development, in a region where the public parking stock is already inadequate will result in impacts to public access and therefore be inconsistent with the City's certified LCP.

Policy #13 of Recreational and Visitor Serving Facilities of the certified LUP addresses the need for future beach parking in the City of Oceanside and lists eight locations where the priority use of that site would be constructing a public parking lot, to provide additional beach parking based on future demand. To be consistent with the City's LCP, priority should be given to those sites when attempting to identify locations for additional public parking. The City has illustrated (ref. Exhibit #5) that to date, all of these locations have been developed with public parking, consistent with Policy #13. The off-site location proposed for public parking associated with this development was previously owned by the railroad (excess right-of-way) and was acquired by the City after Policy #13 of the LUP was certified and thus, is **not** one of the locations identified in Policy #13 for future public parking. The City acquired this excess right-of-way for the express purpose of providing an addition to the City's public parking stock above and beyond those sites identified in the LCP.

Policy #14 restricts development of the railroad right-of-way (R-O-W) to public parking lots only. If this location is considered part of the railroad R-O-W, allowing the lot to include use for private development (7 spaces required for hotel parking) would be inconsistent with this policy. However, while the lot used to be owned by the railroad, it is not considered R-O-W and therefore, development would not be restricted to parking for public use. Therefore, the use of the site for public/private parking does not raise a substantial issue.

Furthermore, the City has a parking study that was completed in December of 2002. The survey includes the public parking existing at that time, the existing demand, and the projected required parking based on proposals for development being reviewed by the City, including this hotel development. The report indicates that the construction of the transit center parking garage provides enough public parking to allow for transit usage, as

well as provide parking for both the movie theatre and the Ocean Palace project. The report indicates that due to the difference in timing (transit usage primarily during business hours on weekdays, and movie theatre, commercial, and residential requirements primarily during nights and weekends); all of these uses were adequately provided by the existing transit center parking garage. Therefore, based on this study, the appellants contentions do not raise a significant issue in that the parking survey documents that public parking (including developments of concern included in the appellants appeal) have been adequately provided by the joint parking facility located at the transit center, a type of parking promoted by the City's LCP Policy number #19.

The City has indicated that the proposed off-site parking lot would not only facilitate the necessary parking associated with this development but that the City intends to include approximately 40 additional public parking spaces to be added to the City's public parking inventory. The current design of the parking lot includes 234 spaces (229 regular & 5 ADA compliant). The approved project would take up 40 of these parking spaces. A future development, City Mark, located just inland of the project site would utilize 148 of these spaces. The remaining 46 parking spaces would be retained by the City for public use. The construction of the proposed parking lot will require a coastal development permit issued by the City (non-appealable). The City has indicated they would be willing to condition the permit to require those 46 City owned spaces to remain as additional public parking, and not be allocated to replace any future loss of existing public parking, and therefore the construction of this lot, as partially funded by the subject development, would result in a net increase in 46 public parking spaces, thereby increasing public access to the beach, pier, and the proposed development.

The appellants' second concern is regarding the timing for the off-site parking lot. The lot is owned by the City, and as such, the land does not need to be acquired. However, as conditioned by the City, the applicant will submit to the City their portion of the cost for constructing the parking lot prior to the issuance of the grading permit, or the removal of the existing spaces. The City has indicated that another development that has not yet been approved, City Mark, will also be required to contribute their fair share of funds to facilitate the construction of the parking lot. Because the lot will not be the sole responsibility of the applicant, the City did not include in their approval of the CDP a condition requiring the lot construction be finalized prior to the operation of the hotel. The potential impact of this is that, should the hotel be completed and in operation prior to the completion of the construction of the off-site parking lot, the 33 parking spaces that will be removed for construction of the hotel will not be replaced, resulting in loss of public parking and thus impacting public access. Because the project is located immediately adjacent to both the shorefront and the pier, as well as located in the downtown area of the City, this loss of parking may result in significant impacts to public access.

The City has provided an estimated timeline for the development of the proposed parking lot. As previously stated, the mitigation requirements of the certified EIR require the applicant to submit their portion of funding for construction of the lot prior to issuance of the grading permit or the removal of the existing on-street public parking spaces. The

City has already included the construction of the parking lot in their budget, and the fees collected for both this project and the City Mark project will reimburse the City, rather than facilitate the construction of the parking lot. Therefore, the City is not waiting for the applicant to obtain their grading permit, and provide the funding, to begin the parking lot project.

The City indicates that they project completion of the public parking lot by as early as next summer. Given that the proposed parking lot is an at-grade development with no major construction involved, the completion of the parking lot will most likely be prior to the construction of the hotel development. If the existing parking spaces were lost prior to the completion of the replacement parking lot, impacts would only be during the off-peak season, prior to summer months. By having the parking lot completed by the peak-season (predicted summer completion), impacts to public access will be minimized. Further, the City's LCP includes a policy that promotes the development of a contingency parking plan for the use of vacant lots and the railroad right-of-way during occasional peak overflows. Such a plan could and should be generated to reduce any potential impacts to public parking associated with the temporary loss of the existing public parking spaces, if the spaces are lost prior to the completion of the parking lot. As such, while temporary impacts to public parking are possible, they are not likely, and they can be mitigated by the City.

Using the City of Oceanside's Off-Street Parking and Loading Spaces Requirements, as certified by their implementation plan, the project's total required parking spaces were 684. Of the required 684 parking spaces, 462 were required for hotel guest parking and 222 parking spaces were required for the various other amenities such as the restaurant, coffee shop, spa, fitness center. Many of the commercial uses were given reductions from the standard requirements, given that a large percentage of patrons at these facilities (approximately 88%) will be hotel guests and will not require additional parking. As permitted by the parking ordinances, a reduction of 20% (137 spaces) in required number of spaces for a total of 580 required parking spaces was authorized. The applicant has stated that there will be a fee collected for parking in the proposed garage, for hotel guests, patrons and members of the public alike. The parking garage will not be restricted from use by beachgoers, and will not require a hotel validation.

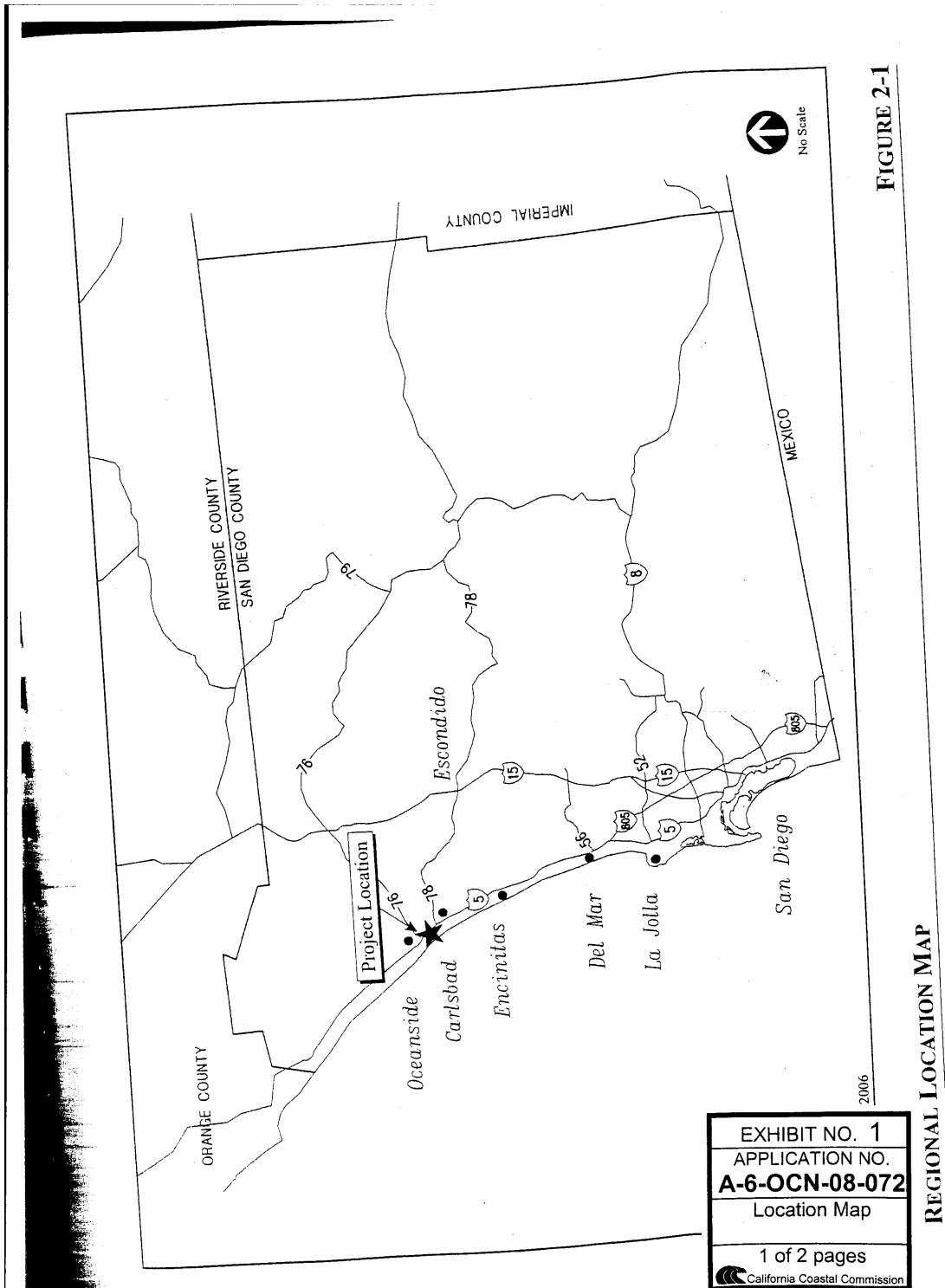
Additionally, as described above, the design of the hotel development includes numerous benefits to public access and recreational opportunities. Included in the development are two restaurants, gift and coffee shops, a ballroom / banquet hall, a landscaped promenade, and a full service spa. The promenade will provide the public with a scenic route to the pier, the ballroom a place to host weddings, proms, conferences, etc. all at some benefit to the public. Again, the City has been working for a number of years to develop a high-end hotel project in their downtown area. This approved project will not only provide benefits to the public, but will provide the City a needed high-end resort. Therefore, the project does not raise a significant issue when looking at the potential for impacts to public access resulting from the potential removal of 33 public parking spaces prior to the construction of the proposed public parking lot.

It is important to note that this project does represent possible impacts to public parking that should be addressed if similar circumstances arise in future developments. If there is a loss of existing public parking spaces, the City should require the applicant to replace these parking spaces on-site and prior to the beginning of construction, to assure that the public will not be affected by the development. Furthermore, allowing the seven hotel parking places to be provided in a City owned facility that has the potential for being 100% public parking is also not ideal. Again, future projects should include all parking requirements (both the required new parking and any replacement parking) on-site and allow for any remaining vacant land west of the railroad tracks to be utilized for additional public parking and other visitor-serving amenities. Based on the conclusions of the parking study completed in 2002, the City is currently maintaining enough parking to accommodate the current need. The City should prioritize identifying additional land to be reserved for parking, to take into account future demand. Furthermore, while the proposed City Mark project is not within the appealable area of the Coastal Commission, the Commission acknowledges that the land of the proposed development is currently used to accommodate a large supply of on-site public parking. The loss of this public parking must also be replaced at the required one-to-one ratio. Any deviations from a one-to-one ration would require an amendment to the LCP.

3. Conclusion. In summary, the development as approved by the City is consistent with all applicable LCP land use policies and provisions/development standards of the certified LCP Implementation Plan. The project, as approved by the City, is consistent with the public access and parking requirements of the certified LCP and the public access and recreation policies of Chapter 3 of the Coastal Act. While the appellants have raised some valid concerns regarding how the City is addressing the potential future needs for public parking in its beach areas, the subject development does not raise a substantial issue given that the project will not result in a loss of public parking spaces west of the railroad tracks and adequate parking is being provided consistent with the requirements of the certified LCP. There is a potential for temporary impacts if the 33 existing public parking spaces are lost prior to the construction of the replacement parking spaces at the off-site parking facility. However, the City has stated that construction of this off-site parking lot is currently budgeted for and is expected to be completed as early as next summer, but in any case, before development of the subject hotel development is completed. In addition, the proposed hotel project will result in benefits to public access and recreational opportunities. Therefore, the Commission finds that the appeal does not raise substantial issue with regard to the project's consistency with the certified LCP.

4. Substantial Issue Factors. As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of no substantial issue. While the extent and scope of the development approved by the City is large, it has adequately addressed all aspects of the project to ensure that they are consistent with the LCP, so this factor does not support a finding of substantial issue. In addition, the primary coastal resource raised by the appellants that could be

affected by the City's decision is public access. All potential impacts to public access have been addressed in the CDP. Moreover, the proposed project is for construction of a resort hotel and visitor serving commercial uses, consistent with the public access and parking requirements of the certified LCP. The City's analysis of the parking issues raised here are consistent with the certified LCP and do not consist of new or unusual constructions of the terms of the LCP that could have precedential value for future interpretation of the LCP. Finally, the objections to the project made by the appellants raise solely local parking issues, rather than a substantial issue of regional or statewide significance. Thus, none of the factors that might support a finding of substantial issue are relevant for this appeal.

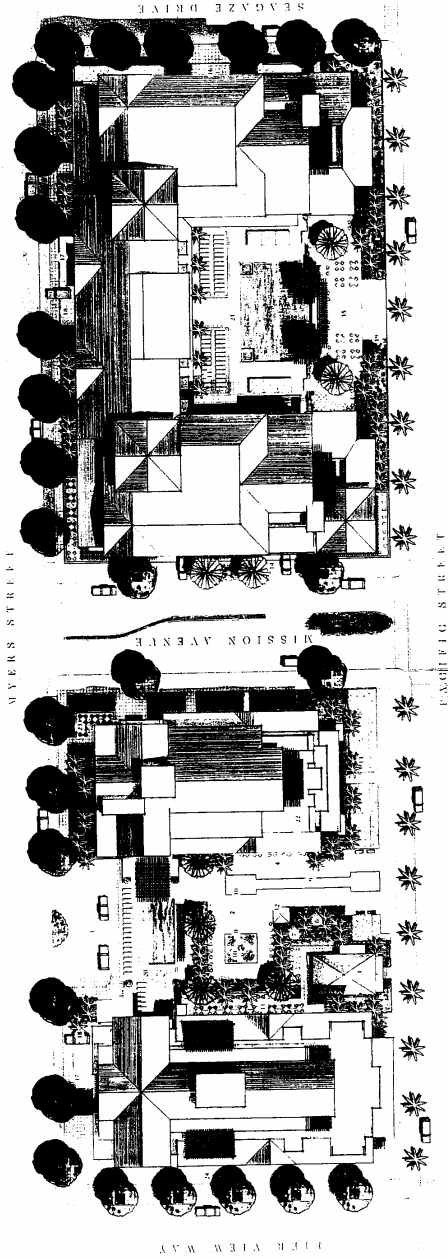




PROJECT VICINITY MAP

FIGURE 2-2

SD
INC.



- KEY TO THE PLAN
- 1. NORTH BEACH AVENUE PLAZA
 - 2. THE CANAL KIOSK Kiosk Shop
 - 3. THE CANAL KIOSK Kiosk Shop
 - 4. THE CANAL KIOSK Kiosk Shop
 - 5. THE CANAL KIOSK Kiosk Shop
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Illustrative Site Plan



OCEANSIDE
BEACHFRONT RESORT

01 November 2007

S.D. Mall Inc.

EXHIBIT NO. 2

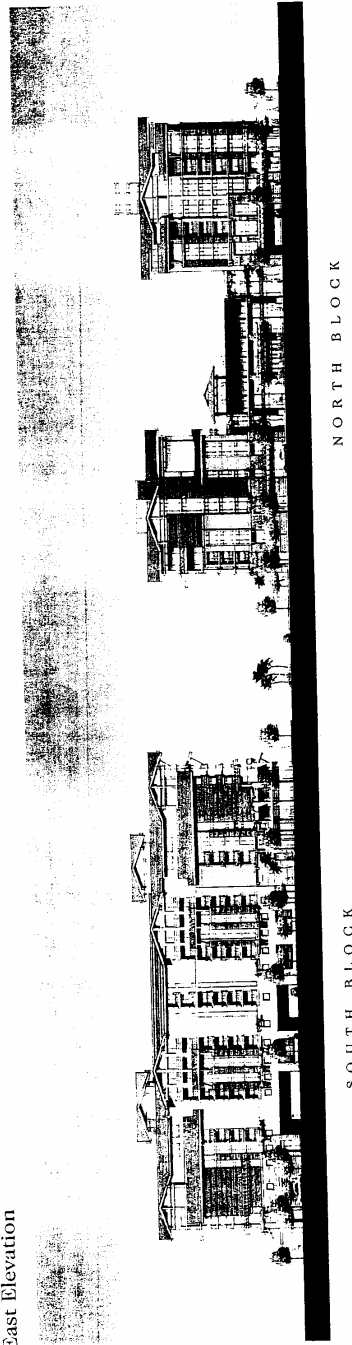
APPLICATION NO.

A-6-OCN-08-072

Site Plan

1 of 9 pages

East Elevation

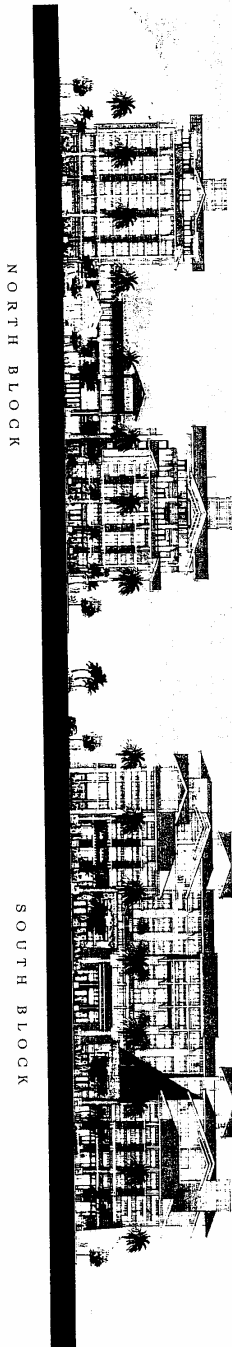


OCEANSIDE
BEACHFRONT RESORT

01 November 2007

800 MILLER STREET, INC.

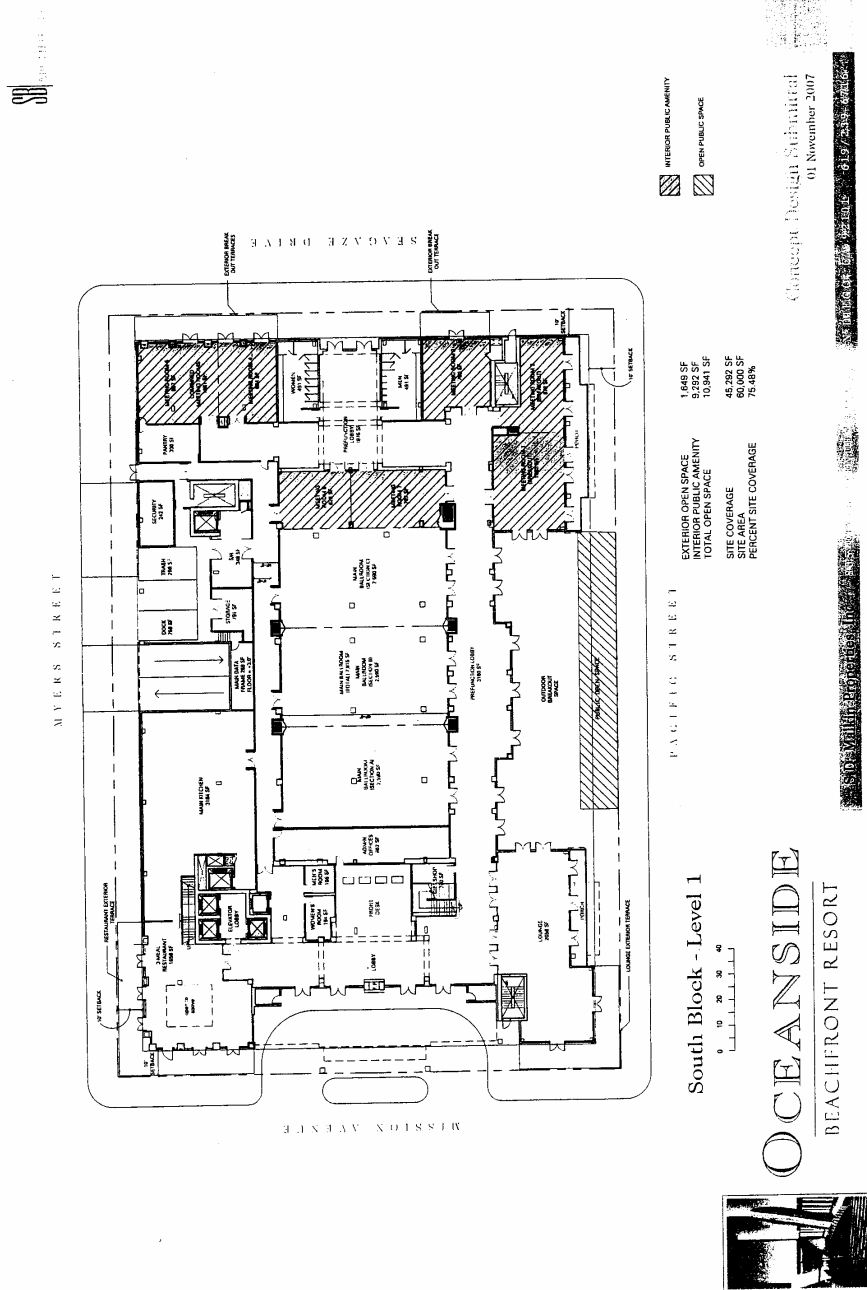
West Elevation



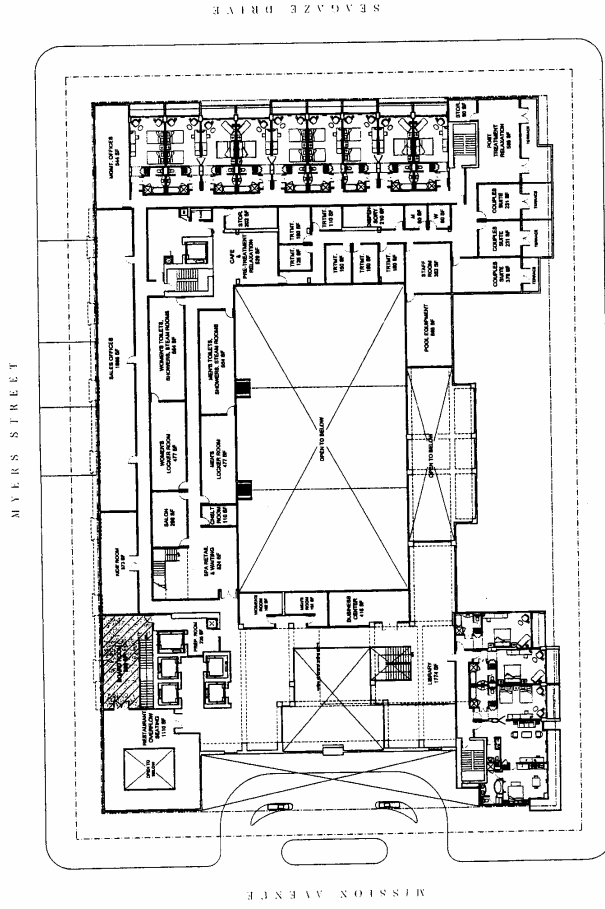
OCEANSIDE
BEACHFRONT RESORT

SD MUEHLHOFER INC.

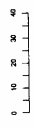
01 November 2007



SP
36-11114-15



South Block - Level 2



INTERIOR PUBLIC AMENITY

PACIFIC STREET


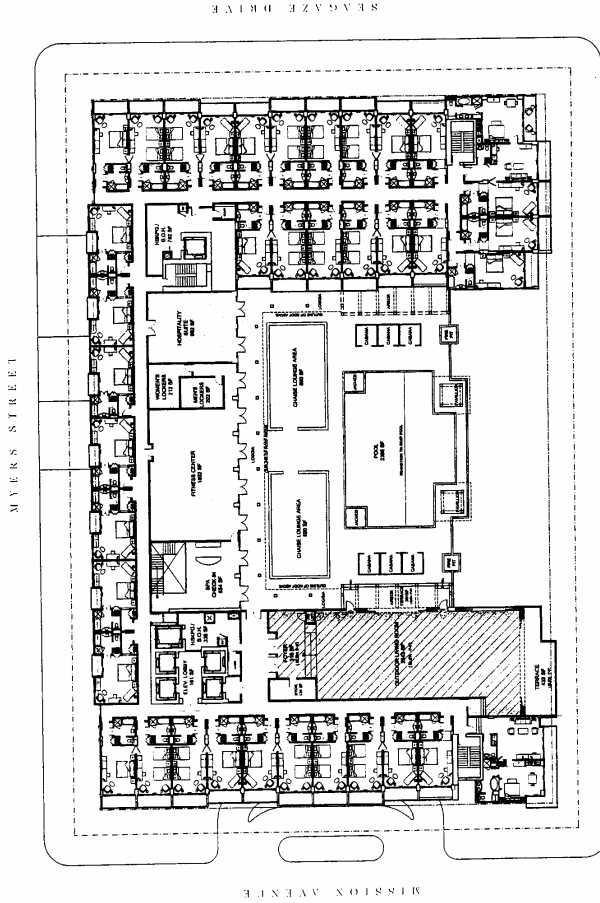
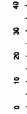
SEAGAZE DRIVE

MISSION AVENUE

Concept Design Submitted
on November 2nd, 2007

OCEANSIDE
BEACHFRONT RESORT



 INTERIOR PUBLIC AMENITY

DECLASSIFICATION

South Block - Level 3



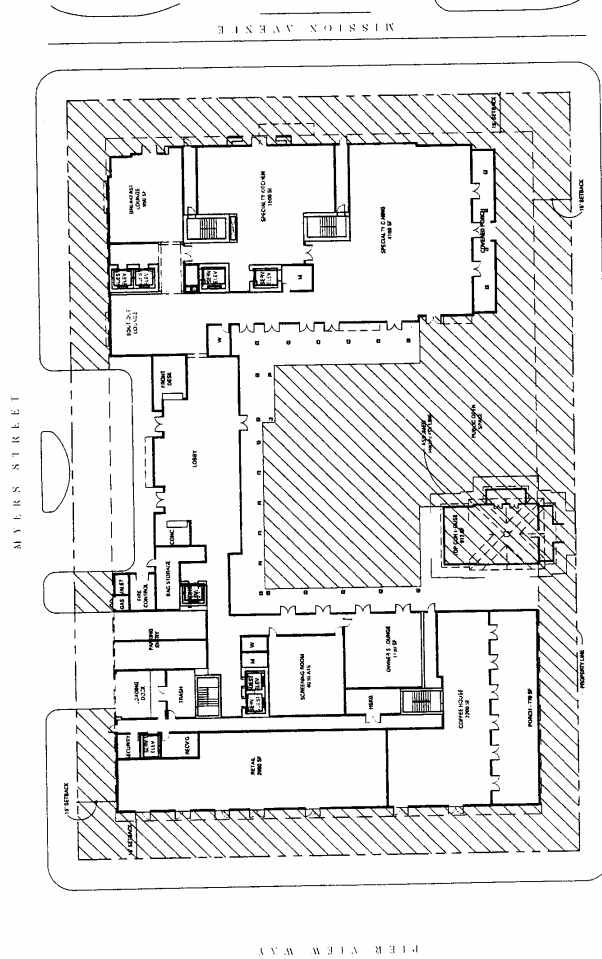
OCEANSIDE

BEACHFRONT RESORT

Concept Design Submitted
01 November 2007

01 November 2007

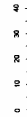
SP
Landscape



INTERIOR PUBLIC AMENITY	23,185 SF
EXTERIOR OPEN SPACE	25,075 SF
TOTAL OPEN SPACE	48,260 SF
SITE COVERAGE	60,000 SF
PERCENT SITE COVERAGE	44.48%

PACIFIC STREET

North Block - Level 1



OCEANSIDE
BEACHFRONT RESORT



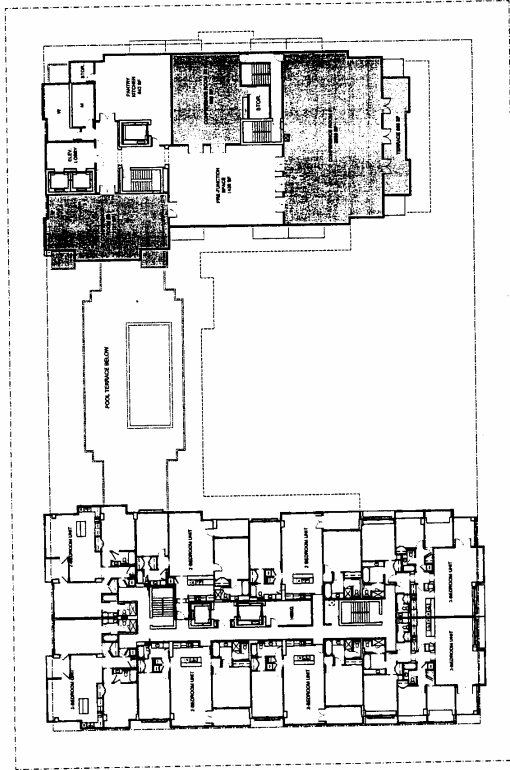
Concept Design Submitted
01 November 2007

1500 North Pacific Street, Suite 100, San Francisco, CA 94109

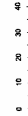


MYERS STREET

MISSION AVENUE



PEER VIEW WAY



PACIFIC STREET

North Block - Level 6

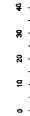
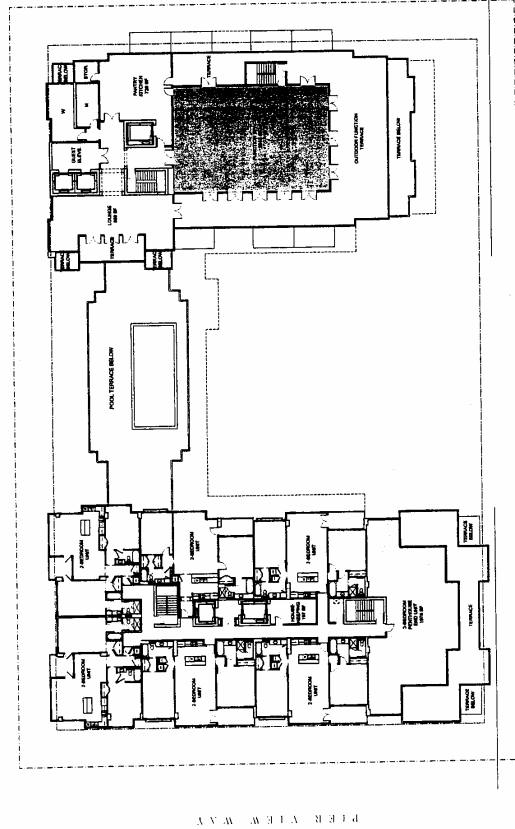
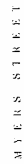
Architect: S. J. Architects
Date: 01 November 2007
Project: 43K Beachfronts, Fairshore



OCEANSIDE
BEACHFRONT RESORT

Concept Design Submitted
01 November 2007

Architect: S. J. Architects
Date: 01 November 2007
Project: 43K Beachfronts, Fairshore



North Block - Level 7

Nonlinear block - Level 1



BEACHFRONT RESORT

Accepted Design Submitted
01 November 2007

Sole Value Properties, Inc.
800-976-9766
BAYVIEW, MI 48104
CLAS 9:21(0)
64922289 - 07/14

ATT. 5

**CITY OF OCEANSIDE**DEPARTMENT OF THE CITY CLERK
BARBARA RIEGEL WAYNECERTIFICATIONSTATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF OCEANSIDE)

I, BARBARA RIEGEL WAYNE, City Clerk of the City of Oceanside, hereby certify that the foregoing is a true and correct copy of Resolution No. 08-R0020-3 dated January 16, 2008 and approved by the Oceanside City Council.

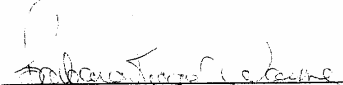


Barbara Riegel Wayne, City Clerk
City of Oceanside, CaliforniaDated: Jan 24, 2008

EXHIBIT NO. 3
APPLICATION NO.
A-6-OCN-08-072
Resolution
1 of 25 pages
 California Coastal Commission

RESOLUTION NO. 08-R0020-3

A RESOLUTION OF THE COMMUNITY DEVELOPMENT COMMISSION OF THE CITY OF OCEANSIDE APPROVING A TENTATIVE MAP, DEVELOPMENT PLAN, HISTORIC PERMIT, CONDITIONAL USE PERMIT AND REGULAR COASTAL PERMIT FOR THE CONSTRUCTION OF A 336-UNIT HOTEL, 48-UNIT FRACTIONAL TIME SHARE AND 18,500 SQUARE FEET OF COMMERCIAL USES LOCATED ON TWO CITY BLOCKS BOUNDED BY PIER VIEW WAY, SEAGAZE DRIVE, MYERS AND PACIFIC STREETS - APPLICANT: S.D. MALKIN

WHEREAS, on January 16, 2008, the Community Development Commission held its duly noticed public hearing, considered an application for a Tentative Map (T-204-06), Development Plan (D-213-06), Historic Permit (H-03-07), Conditional Use Permit (C-208-06) and Regular Coastal Permit (RC-215-06) for the construction of a 336-unit hotel, 48-unit fractional time shares and 18,500 square feet of commercial uses located on two city blocks bounded by Pier View Way on the north, Seagaze Drive on the south, Myers Street on the east and Pacific Street on the west, on certain real property described in Exhibit "A";

WHEREAS, the Oceanside Historic Preservation Advisory Commission of the City of Oceanside did, on October 30, 2007, review and recommend approval of Historic Permit (H-03-07);

WHEREAS, the Redevelopment Design Review Committee (RDRC) of the City of Oceanside did, on September 17, 2007, and on November 1, 2007, review and recommend approval of Tentative Map (T-204-06), Development Plan (D-213-06), Conditional Use Permit (C-208-06) and Regular Coastal Permit (RC-215-06);

WHEREAS, the Redevelopment Advisory Committee (RAC) of the City of Oceanside did, on January 9, 2008 review and recommend approval of Tentative Map (T-204-06), Development Plan (D-213-06), Conditional Use Permit (C-208-06) and Regular Coastal Permit (RC-215-06);

WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee, dedication, reservation or other exaction to the extent permitted and as

1 authorized by law;

2 WHEREAS, a Final Environmental Impact Report was prepared by the Resource
3 Officer of the City of Oceanside for this application pursuant to the California
4 Environmental Quality Act of 1970 and the State Guidelines implementing the Act;

5 WHEREAS, the Final Environmental Impact Report was also reviewed and
6 certified by the Community Development Commission prior to taking action on
7 Tentative Map (T-204-06), Development Plan (D-213-06), Conditional Use Permit (C-
8 208-06) and Regular Coastal Permit (RC-215-06);

9 WHEREAS, there is hereby imposed on the subject development project certain
10 fees, dedications, reservations and other exactions pursuant to state law and city
11 ordinance;

12 WHEREAS, pursuant to Government Code §66020(d)(1), NOTICE IS HEREBY
13 GIVEN that the Project is subject to certain fees, dedications, reservations and other
14 exactions as provided below:

15	<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or</u>
16			<u>Calculation Formula</u>
17			
18			
19	Drainage Fee	Ordinance No. 85-23	\$2,843 per acre
20		Resolution No. 05-R0628-1	
21	Public Facility Fee	Ordinance No. 91-09	\$713 per thousand square
22		Resolution No. 05-R0628-1	feet
23			
24	School Facilities Mitigation	Ordinance No. 91-34	\$.42 per square foot
25	Fee		
26	Traffic Signal Fee	Ordinance No. 87-19	\$15.71 per vehicle trip
27			
28	Thoroughfare Fee	Ordinance No. 83-01	\$255 per vehicle trip

<u>Description</u>	<u>Authority for Imposition</u>	<u>Current Estimate Fee or Calculation Formula</u>
		(based on SANDAG trip generation table)
Water System Buy-in Fees	Oceanside City Code §37.56.1 Resolution No. 87-96 Ordinance No. 05-OR 0611-1	Fee based on water meter size. Non-residential is \$19,967 for a 2" meter
Wastewater System Buy-in fees	Oceanside City Code § 29.11.1 Resolution No. 87-97 Ordinance No. 05-OR 0610-1	Based on meter size. Non- residential is typically \$24,444 for a 2" meter
San Diego County Water Authority Capacity Fees	SDCWA Ordinance No. 2005-03	Based on meter size. Non- residential is typically \$21,599 for a 2" meter
<p>WHEREAS, the current fees referenced above are merely fee amount estimates of the impact fees that would be required if due and payable under currently applicable ordinances and resolutions, presume the accuracy of relevant project information provided by the applicant, and are not necessarily the fee amounts that will be owing when such fees become due and payable;</p> <p>WHEREAS, unless otherwise provided by this resolution, all impact fees shall be</p>		

1 calculated and collected at the time and in the manner provided in Chapter 32B of the
2 Oceanside City Code and the City expressly reserves the right to amend the fees and fee
3 calculations consistent with applicable law;

4 WHEREAS, the City expressly reserves the right to establish, modify or adjust
5 any fee, dedication, reservation or other exaction to the extent permitted and as
6 authorized by law;

7 WHEREAS, pursuant to Government Code §66020(d) (1), NOTICE IS
8 FURTHER GIVEN that the 90-day period to protest the imposition of any fee,
9 dedication, reservation, or other exaction described in this resolution begins on the
10 effective date of this resolution and any such protest must be in a manner that complies
11 with Section 66020; and

12 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution
13 becomes effective upon its adoption.

14 WHEREAS, for purpose of judicial review, the decision of the Commission is
15 final with respect to this resolution upon its adoption.

16 NOW, THEREFORE, the Community Development Commission of the City of
17 Oceanside does resolve as follows:

18 FINDINGS:

19 For the Tentative Map:

20 1. The proposed hotel, timeshare and associated visitors serving commercial
21 uses meets the requirement of the Subdistrict 12 zoning designation in that the project
22 creates a multiple-lot map on several existing pre-existing legal lots as stipulated within
23 Article 12 of the Downtown District development standards. The subdivision map is
24 consistent with the General Plan, Redevelopment Plan, Local Coastal Program, Article 12
25 of the Downtown District and the Subdivision Ordinance of the City of Oceanside by
26 creating a multiple-lot map on a pre-existing legal lots.

27 2. The proposed building on the site will conform to the topography of the site,
28 therefore, making it suitable for commercial development. The subject site is physically

1 suitable to allow for the development of a 336-unit hotel, 48-unit fractional timeshares and
2 18,500 square feet of associated commercial uses.

3 3. The subdivision complies with all other applicable ordinances, regulations
4 and guidelines of the City.

5 4. The design of the subdivision or proposed improvements will not conflict
6 with easements, acquired by the public at large, for access through or use of property
7 within the subdivision.

8 5. The design of the subdivision or the proposed improvements will not cause
9 substantial environment damage or substantially and avoidably injure fish or wildlife or
10 their habitat because the proposed project is an infill site that does not contain any sensitive
11 habitat, river or blue stream, wildlife, riparian habitat, sensitive landforms and/or geologic
12 formations or minerals, sensitive fauna and marine life.

13 For the Development Plan:

14 1. The site plan and physical design of the project as proposed is consistent with the
15 purposes of the City's Zoning Ordinance and the "D" Downtown District in that the
16 architectural design of the proposed structure, landscaping, and open space meets or
17 exceeds the minimum development standards of the "D" Downtown District. The
18 proposed project meets the minimum setbacks, landscape, open space, height and
19 parking spaces as stipulated within the "D" Downtown District development standards.
20 In addition, the project is consistent with the similar development located within the
21 surrounding neighborhood.

22 2. The Development Plan as proposed conforms to the Redevelopment Plan,
23 Local Coastal Program and General Plan of the City in that the proposed 336-unit hotel,
24 48-unit fractional timeshare and 18,500 square feet of visitor serving commercial uses is
25 consistent with the land uses of the Redevelopment Plan and the project meets the
26 minimum setbacks, landscape, open space, height and parking spaces as stipulated
27 within the "D" Downtown District development standards. The proposed hotel use is
28 consistent with the Local Coastal Program designation for the subject site of "Coastal

1 Dependent, Recreation and Visitor Serving Commercial". The proposed hotel also is
2 consistent with the Local Coastal Plan policies which state that "the City lacks a high
3 quality tourist destination hotel in the beach area". The proposed hotel use is consistent
4 with Subdistrict 12 of the Redevelopment Plan which states that this zone is to provide a
5 special tourist/visitor oriented zone. In addition, the project is consistent with the newer
6 development such as the Wyndham timeshare project located immediately north of the
7 subject site in terms of size, bulk and uses and the proposed CityMark project.

8 3. The area covered by the Development Plan can be adequately, reasonably
9 and conveniently served by existing and planned public services, utilities and public
10 facilities. The proposed 336-unit hotel, 48-unit fractional timeshare and 18,500 square
11 feet of commercial uses will not create public service and facility demands exceeding
12 the capacity of existing and planned infrastructure.

13 4. The proposed project, a 336-unit hotel, 48-unit fractional timeshare and
14 18,500 square feet of commercial use is compatible with the adjacent timeshare
15 development within the surrounding neighborhood in that in comparing the project's
16 corresponding square footages to the square footages of the existing adjacent timeshare, it
17 can be found that the proposed height (90-feet), Floor Area Ratio (3.48), Open Space
18 (30%), site coverage (59%), unit sizes and commercial spaces are also comparable in size
19 and would have a positive effect on the area.

20 5. The site plan and physical design of the project is consistent with Section
21 1.24 and 1.25 of the Land Use Element of the General Plan, and Section 3039 of the
22 Oceanside Zoning Ordinance (Hillside Development Provisions), in that there is only 1
23 foot grade differentials from the highest and lowest points of the subject site and the
24 proposed project is a commercial development, therefore, not subject to these sections of
25 the Land Use Element of the General Plan.

26 For the Conditional Use Permit for the Hotel and Fractional Timeshare Uses:

27 1. That the proposed location of the use is in accord with the objectives of this
28 ordinance and the purposes of the district in which the site is located. The location of the

1 proposed hotel and fractional timeshare operations and associated ancillary uses are
2 consistent with the allowable uses within this land use district (Subdistrict 12) of the
3 Redevelopment Plan. The purpose of Subdistrict 12 is providing a special tourist/visitor
4 oriented Subdistrict that relates to the pier, ocean, beach, marina and freeway.

5 2. That the proposed location of the conditional use and the proposed
6 conditions under which it would be operated or maintained will be consistent with the
7 General Plan; will not be detrimental to the public health, safety or welfare of persons
8 residing or working in or adjacent to the neighborhood of such use; and will not be
9 detrimental to properties or improvements in the vicinity or to the general welfare of the
10 city. The proposed restrictions for the conditional use permit are consistent with the
11 Zoning Ordinance, General Plan and Redevelopment Plan, will not affect neighborhood
12 compatibility. The operation of the proposed hotel and timeshare uses and the
13 conditions under which it will be allowed to operate will not be detrimental to the public
14 health, safety or welfare of persons residing or working in or adjacent to the subject site.

15 3. That the proposed conditional use will comply with the provisions of this
16 ordinance, including any specific condition required for the proposed conditional use in the
17 district in which it would be located.

18 For the Conditional Use Permit to Allow for Additional Height:

19 1. That the proposed location of the use is in accord with the objectives of this
20 ordinance and the purposes of the district in which the site is located. The location of the
21 proposed hotel and the proposed additional height is consistent with Section 1230 (N)
22 (2) of the Article 12 Downtown District which allows for the increase of height from the
23 base district requirement of 45-feet to 90-feet on a portion of the project provided that
24 superior design standards and regulations are incorporated into the project. The increase
25 in height is warranted due to the project's superior design which maintains lot coverage
26 of no more than 60 percent, maintains additional setbacks and minimal encroachments,
27 provides a pedestrian promenade adjacent to Pacific Street; maintains a minimum of 30
28 percent of the site devoted to public space, preserves view corridors, maintains less than

1 a 4.0 FAR, maintains an articulated façade and provides transient and visitor serving
2 commercial uses. The purpose of Subdistrict 12 is providing a special tourist/visitor
3 oriented Subdistrict that relates to the pier, ocean, beach, marina and freeway.

4 2. That the proposed location of the conditional use and the proposed
5 conditions under which it would be operated or maintained will be consistent with the
6 General Plan; will not be detrimental to the public health, safety or welfare of persons
7 residing or working in or adjacent to the neighborhood of such use; and will not be
8 detrimental to properties or improvements in the vicinity or to the general welfare of the
9 city. The proposed increase in building height from 45 to 90-feet in height on a portion
10 of the project is consistent with the Zoning Ordinance, which allows building height of
11 up to 140 feet under certain conditions. The proposed increase in building height will
12 not be detrimental to properties or improvements in the vicinity or to the general welfare
13 of the City, which should benefit economically from the increased commercial activity
14 and revenue generated from the proposed project.

15 3. That the proposed conditional use will comply with the provisions of this
16 ordinance, including any specific condition required for the proposed conditional use in
17 the district in which it would be located. The proposed increase in building height from
18 45 to 90-feet on a portion of the project, with the corresponding conditions imposed on
19 the project, will comply with the provisions of the Downtown "D" District and Zoning
20 Ordinance. Additionally, the public plaza, promenades and other public and recreation
21 areas and superior design features, provided in connection with the increase in height on
22 a portion of the project, will be a benefit to the community.

23 For the Regular Coastal Permit:

24 1. The granting of the Regular Coastal Permit is consistent with the purposes
25 of the California Coastal Act of 1976. The proposed project has been sited and designed
26 with a public plaza, promenades and design features to protect public views of and
27 access to the ocean along Pier View Way, Pacific Street and Seagaze Drive. The
28 proposed project is compatible with the adjacent Wyndham project which is comprised

1 of visitor serving commercial use and high-rise timeshares. In addition, a 90-foot high
2 mixed use development has been approved in the vicinity. The City's Zoning
3 Ordinance, which implements the City's Local Coastal Program, contemplates
4 development in the District of a height up to 140 feet in certain conditions.

5 2. The proposed project is consistent with the policies of the Local Coastal
6 Program as implemented through the City Zoning Ordinance. The proposed uses are
7 consistent with the Local Coastal Program designation for the subject site of "Coastal
8 Dependent, Recreation and Visitor Serving Commercial" and will conform to the
9 requirements of the Zoning Ordinance. In addition, the project will not substantially
10 alter or impact the existing coastal views through the public rights-of-way corridors.
11 The proposed project will provide the number of hotel rooms and visitor serving
12 commercial required by the City's Nine-Block Master Plan.

13 3. The proposed project will not obstruct any existing or planned public
14 beach access; therefore, the project is in conformance with the policies of Chapter 3 of
15 the Coastal Act. The proposed project provides between 10-18 foot setbacks and the
16 orientation of the proposed buildings will not obstruct the two existing public beach
17 access points located at Pier View Way and Seagaze Drive.

18 SECTION 1. That Tentative Map (T-204-06), Development Plan (D-213-06),
19 Conditional Use Permit (C-208-06) and Regular Coastal Permit (RC-215-06) are hereby
20 approved subject to all of the conditions set forth in Exhibit "B" attached hereto and
21 incorporated herein by this reference.

22 SECTION 2. The Final Environmental Impact Report has been reviewed and
23 certified by the Community Development Commission prior to approval of the Tentative
24 Map (T-204-06), Development Plan (D-213-06), Historic Permit (H-03-07), Conditional
25 Use Permit (C-208-06) and Regular Coastal Permit (RC-215-06).

26 NOTICE is hereby given that the time within which judicial review must be
27 sought on this decision is governed by Code of Civil Procedure Section 1094.6 and
28 Government Code section 65009 (c).

1 PASSED AND ADOPTED by the Oceanside Community Development
2 Commission of the City of Oceanside this 16th day of January 2008 by the following
3 vote:

4 AYES: WOOD, CHAVEZ, FELLER, KERN, SANCHEZ

5 NAYS: NONE

6 ABSENT: NONE

7 ABSTAIN: NONE

8

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10 ATTEST:

11

12 Secretary

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14 APPROVED AS TO FORM:

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16 General Counsel

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Chairman

EXHIBIT NO. A

Page 1
Order No. 53030435

DESCRIPTION

Resolution No. 08-R0020-3
1/16/08 (6)

PARCEL A: (APN: 147-261-01, 02, 03, 04, 09, 10, 11 AND 12)

LOTS 1, 2, 3, 4, 9, 10, 11 AND 12 IN BLOCK 16 OF OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 344, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 1, 1885.

PARCEL B: (APN: 147-076-11, 12 AND 10)

LOTS 4, 5, 6, 7, 8, 9, 10, 11 AND 12 IN BLOCK 17 OF OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 344, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 1, 1885.

PARCEL C: (APN: 147-076-01, 02 AND 03)

LOTS 1, 2 AND 3 OF BLOCK 17, OF OCEANSIDE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 344, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 1, 1885.

EXCEPTING AND RESERVING TO THE DEFENDANTS AS SET FORTH IN A FINAL ORDER OF CONDEMNATION RECORDED APRIL 18, 2003 AS FILE NUMBER 2003-447702 OF OFFICIAL RECORDS ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN 500 FEET BELOW THE SURFACE OF SAID PROPERTY, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH, AND TO USE AND OCCUPY ALL PARTS OF SAID PROPERTY LYING MORE THAN 500 FEET BELOW THE SURFACE THEREOF FOR ANY PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FOR SAID PROPERTY OR OTHER LANDS, BUT WITHOUT, HOWEVER, ANY RIGHT TO USE EITHER THE SURFACE OF SAID PROPERTY OR ANY PORTION OF SAID PROPERTY WITHIN 500 FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER.

PARCEL D: (APN: 147-261-05, 06, 07 AND 08)

LOTS 5, 6, 7 AND 8 IN BLOCK 16 OF OCEANSIDE TOWNSITE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 344, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 1, 1885.

EXCEPTING AND RESERVING ALL OIL, GAS, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER TOGETHER WITH THE RIGHT TO EXPLORE FOR AND EXTRACT SUCH SUBSTANCES; PROVIDED THAT ANY SURFACE OPENING, HOLE, SHAFT OR OTHER MEANS OF EXPLORING FOR, REACHING OR EXTRACTING SUCH SUBSTANCES SHALL NOT BE LOCATED WITHIN THE DOWNTOWN REDEVELOPMENT PROJECT AREA, AND SHALL NOT PENETRATE ANY PART OR PORTION OF SAID PROJECT AREA WITHIN 500 FEET OF THE SURFACE THEREOF.

PARCEL E: (APN: 147-263-24)

LOTS ONE (1) TO THIRTEEN (13) INCLUSIVE, IN BLOCK NINE (9) OF STRAND TRACT ADDITION TO OCEANSIDE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 936, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, DECEMBER 8, 1904.

EXCEPTING THEREFROM ALL STREETS ADJOINING SAID LANDS.

PARCEL F: (APN: 147-074-15)

Page 2
Order No. 53030435

DESCRIPTION

ALL THOSE CERTAIN PARCELS OF LAND SITUATED IN THE CITY OF OCEANSIDE, COUNTY OF OCEANSIDE, STATE OF CALIFORNIA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF BLOCK NO. SEVENTEEN (17) OF THE CITY OF OCEANSIDE, ACCORDING TO MAP MADE BY CAVE J. COUTS, C. E., AND RECORDED IN THE COUNTY RECORDER'S OFFICE OF SAN DIEGO COUNTY, STATE OF CALIFORNIA, ON JULY 1, 1885; THENCE RUNNING SOUTH FIFTY-FOUR (54) DEGREES WEST AND IN PROLONGATION OF THE WESTERLY BOUNDARY OF SECOND STREET EIGHTY (80.00) FEET TO A STAKE AT SOUTHERLY BOUNDARY OF PACIFIC STREET AND POINT OF BEGINNING; THENCE NORTH THIRTY-SIX (36) DEGREES WEST ALONG SOUTHERLY BOUNDARY OF PACIFIC STREET, THREE HUNDRED (300.00) FEET TO A STAKE; THENCE SOUTH FIFTY-FOUR (54) DEGREES WEST ONE HUNDRED FIFTY (150) FEET TO A STAKE; THENCE SOUTH THIRTY-SIX (36) DEGREES EAST THREE HUNDRED (300.00) FEET TO A STAKE; THENCE NORTH FIFTY-FOUR (54) DEGREES EAST ONE HUNDRED FIFTY (150.00) FEET TO A STAKE AND POINT OF BEGINNING; SAID TRACT OF 150 BY 300 FEET, LYING AND BEING EIGHTY (80) FEET DISTANT FROM AND PARALLEL TO THE SOUTHERLY BOUNDARY OF SAID BLOCK SEVENTEEN (17) AND BETWEEN THE PROLONGATION OF THE WESTERLY BOUNDARY OF SECOND STREET AND EASTERLY BOUNDARY OF THIRD STREET OF SAID CITY OF OCEANSIDE.

EXCEPTING THEREFROM ALL STREETS ADJOINING SAID LANDS.

Resolution No. 08-R0020-3
1/16/08 (6)

EXHIBIT "B"

Building:

1. The granting of approval under this action shall in no way relieve the applicant/project from compliance with all State and Local building codes.

2. Site development, common use areas, access and adaptability of apartments and condominiums shall comply with the State's Disabled Accessibility Regulations. (2007 California Building Code (CBC), Chapter 11A).

3. Site development, parking, access into buildings and building interiors shall comply with the State's Disabled Accessibility Regulations. (2007 California Building Code (CBC), Chapter 11B)

4. The building plans for this project are required by State law to be prepared by a licensed architect or engineer and must be in compliance with this requirement prior to submittal for building plan review.

5. All electrical, communication, CATV, etc. service lines within the exterior lines of the property shall be underground (City Code Sec. 6.30).

6. All outdoor lighting must comply with Chapter 39 of the City Code (Light Pollution Ordinance). Where color rendition is important, high-pressure sodium, metal halide or other such lights may be utilized and shall be shown on building and electrical plans.

7. Compliance with the Federal Clean Water Act (BMP's) must be demonstrated on the plans.

8. The developer shall monitor, supervise and control all building construction and supporting activities so as to prevent these activities from causing a public nuisance, including, but not limited to, strict adherence to the following:

- a) Building construction work hours shall be limited to between 7 a.m. and 6 p.m. Monday through Friday. On Saturday from 7 a.m. to 6 p.m. work that is not inherently noise-producing may be performed. Examples of work not permitted on Saturday are concrete and grout

1 pours, roof nailing and activities of similar noise-producing nature. No work
2 shall be permitted on Sundays and Federal Holidays (New Year's Day,
3 Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day)
4 except as allowed for emergency work under the provisions of the Oceanside
5 City Code Chapter 38 (Noise Ordinance) or as otherwise approved by the
6 City Engineer.

7 b) The construction site shall be kept reasonably free of construction debris
8 as specified in Section 13.17 of the Oceanside City Code. Storage of
9 debris in approved solid waste containers shall be considered
10 compliance with this requirement. Small Amounts of construction
11 debris may be stored on site in a neat, safe manner for short periods of
12 time pending disposal.

13 9. Separate/unique addresses will/may be required to facilitate utility releases.
14 Verification that the addresses have been properly assigned by the City's Planning
15 Department must accompany the Building Permit application.

16 10. A complete Soils Report, Structural Calculations, & Energy
17 Calculations/documentation will be required at time of plans submittal to the Building
18 Department for plan check.

19 11. A Building (Demo) Permit will be required for the demolition of any
20 existing structures. Plans for the Demolition Permit must clearly show that all utilities
21 (electric, gas, water, & sewer) are properly terminated/capped in accordance with the
22 requirements of the utility service provider. All/any underground septic or water storage
23 tanks must be removed or filled in accordance with the Uniform Plumbing Code and/or
24 the City's Grading Ordinance.

25 12. A private sewer system design must be submitted to the Building Dept.
26 and approved prior to the construction of the sewer system. If a gravity flow system is
27 not used, an engineered mechanical system must be submitted and approved by all City
28 of Oceanside Departments.

1 13. Setbacks and Type of Construction must comply with CBC Table 602 and
2 Table 704.8.

3 14. Fire sprinklers are required for apartment, condominium and hotel
4 buildings per Section CBC 903.2.7.

5 15. Building levels below grade (on all sides) shall be provided with a
6 mechanical drainage system that provides drainage to an approved location/receptor.

7 16. Plan submittal to the Building Department must include a Pedestrian
8 Protection Plan complying with the requirements of CBC 3306 and Table 3306.1-A.

9 17. The exiting for two or more story Buildings must comply with 2007 CBC
10 chapter 10 and Table 1019.1.

11 18. Tenant Improvements or other construction to the existing building
12 requires permits (including all required Inspections and approvals, and Issuance of
13 Certificate of Occupancy) from the Building Division.

14 19. Final plans including all as built, redlines, and revisions shall be submitted
15 on a CD formatted with a TIF or JPEG image File.

16 **Engineering:**

17 20. Vehicular access rights to Myers Street, Seagaze Drive, Pacific Street and
18 Pier View Way shall be relinquished to the City from all abutting lots, except for all
19 project access and driveways.

20 21. All right-of-way alignments, street dedications, exact geometrics and widths
21 for Myers Street, Seagaze Drive, Pacific Street and Pier View Way shall be dedicated and
22 improved as required by the City Engineer. All required street dedication shall be
23 consistent with the Tentative Map.

24 22. Design and construction of all improvements shall be in accordance with
25 standard plans, specifications of the City of Oceanside and subject to approval by the
26 City Engineer.

27 23. Prior to issuance of a building permit all improvement requirements shall
28 be covered by an improvement agreement and secured with sufficient improvement

1 securities or bonds guaranteeing performance and payment for labor and materials,
2 setting of monuments, and warranty against defective materials and workmanship.

3 24. Legal access shall be provided to Myers Street, Seagaze Drive, Pacific Street
4 and Pier View Way shall be indicated on the Tentative Map.

5 25. The developer shall provide public street dedication shown on the grading
6 and improvement plans prior to the recordation of the final map (if required to serve the
7 property).

8 26. Prior to approval of the final map(s) all improvement requirements shall be
9 covered by a subdivision agreement and secured with sufficient improvement securities or
10 bonds guaranteeing performance and payment for labor and materials, setting of
11 monuments, and warranty against defective materials and workmanship.

12 27. Prior to approval of the first final map (or engineering drawing for a site
13 development plan) a phasing plan for the construction of public and private improvements
14 including landscaping, streets and arterials shall be approved by the City Engineer. All
15 improvements shall be secured or under construction to the satisfaction of the City
16 Engineer prior to the issuance of any building permits. All improvements shall be
17 completed prior to issuance of any final certificates of occupancy.

18 28. The City Engineer shall require the dedication and construction of necessary
19 utilities, streets and other improvements outside the area of any particular final map, if such
20 is needed for circulation, parking, access or for the welfare or safety of future occupants of
21 the development. The boundaries of any multiple final map increment shall be subject to
22 the approval of the City Engineer.

23 29. Where proposed off-site improvements, including but not limited to slopes,
24 public utility facilities, and drainage facilities, are to be constructed, the applicant shall, at
25 his own expense, obtain all necessary easements or other interests in real property and shall
26 dedicate the same to the City of Oceanside as required. The applicant shall provide
27 documentary proof satisfactory to the City of Oceanside that such easements or other
28 interest in real property has been obtained prior to the issuance of any grading, building or

1 improvement permit for the development/project). Additionally, the City of Oceanside,
2 may at its sole discretion, require that the applicant obtain at his sole expense a title policy
3 insuring the necessary title for the easement or other interest in real property to have vested
4 with the City of Oceanside or the applicant, as applicable.

5 30. Pursuant to the Subdivision Map Act, improvements shall be required at the
6 time of development. A covenant, reviewed and approved by the City Attorney, shall be
7 recorded attesting to these improvement conditions and a certificate setting forth the
8 recordation shall be placed on the map.

9 31. Prior to the issuance of a grading permit, the Developer shall notify and
10 host an informational neighborhood meeting with all of the area residents located within
11 300 feet of the project site and residents of property along any residential streets to be
12 used as a "haul route", to inform them of the grading and construction schedule, haul
13 routes, and to answer questions.

14 32. The developer shall monitor, supervise and control all construction and
15 construction-supportive activities, so as to prevent these activities from causing a public
16 nuisance, including but not limited to, assuring strict adherence to the following:

- 17 a) Dirt, debris and other construction material shall not be deposited on any
18 public street or within the City's storm water conveyance system.
- 19 b) All grading and related site preparation and construction activities shall be
20 limited to the hours of 7 AM to 6 PM, Monday through Friday. No
21 engineering related construction activities shall be conducted on Saturdays,
22 Sundays or legal holidays unless written permission is granted by the City
23 Engineer with specific limitations to the working hours and types of
24 permitted operations. All on-site construction staging areas shall be as far
25 as possible from any existing residential development. Because
26 construction noise may still be intrusive in the evening or on holidays, the
27 City of Oceanside Noise Ordinance also prohibits "any disturbing
28 excessive or offensive noise which causes discomfort or annoyance to

1 reasonable persons of normal sensitivity.”

2 c) A haul route shall be obtained at least 7 days prior the start of hauling
3 operations and must be approved by the City Engineer. Hauling operations
4 shall be 8:00 A.M. to 3:30 P.M. unless approved otherwise.

5 33. A traffic control plan shall be prepared according to the City traffic control
6 guidelines and be submitted to and approved by the City Engineer prior to the start of
7 work within open City rights-of-way. Traffic control during construction of streets that
8 have been opened to public traffic shall be in accordance with construction signing,
9 marking and other protection as required by the Caltrans Traffic Manual and City Traffic
10 Control Guidelines. Traffic control plans shall be in effect from 8:00 a.m. to 3:30 p.m.
11 unless approved otherwise.

12 34. Approval of this development project is conditioned upon payment of all
13 applicable impact fees and connection fees in the manner provided in chapter 32B of the
14 Oceanside City Code. All drainage fees, traffic signal fees and contributions, highway
15 thoroughfare fees, reimbursements, and other applicable charges, fees and deposits shall be
16 paid prior to recordation of the map or the issuance of any building permits, in accordance
17 with City Ordinances and policies.

18 35. Myers Street, Seagaze Drive, Pacific Street and Pier View Way along
19 property frontage shall be improved with curbs and gutters and sidewalk.

20 36. Myers Street, Seagaze Drive, Pacific Street and Pier View Way shall provide
21 a minimum of 10 feet parkway along property frontage between the face of curb and the
22 right of way line. Sidewalk improvements shall comply with ADA requirements.

23 37. Sight distance requirements at the project driveway or street shall conform to
24 the corner sight distance criteria as provided by SDRSD DS-20A and or DS-20B.

25 38. Streetlights shall be maintained and installed on all public streets per City
26 Standards. The system shall provide uniform lighting, and be secured prior to occupancy.
27 The developer shall pay all applicable fees, energy charges, and/or assessments associated
28 with City-owned (LS-2 rate schedule) streetlights and shall also agree to the formulation of,

1 or the annexation to, any appropriate street lighting district. Street lights shall meet the
2 new downtown street light standard.

3 39. Prior to approval of the improvement plans, the developer shall contract with
4 a geotechnical engineering firm to perform a field investigation of the existing pavement
5 on all streets adjacent to the project boundary. The limits of the study shall be half-street
6 plus twelve (12) feet along the project's frontage. The field investigation shall include a
7 minimum of one pavement boring per every fifty (50) linear feet of street frontage. Should
8 the existing AC thickness be determined to be less than three (3) inches or without
9 underlying Class II base material, the Developer shall remove and reconstruct the
10 pavement section as determined by the City Engineer.

11 40. Upon review of the pavement investigation, the City Engineer shall
12 determine whether the Developer shall: 1) Repair all failed pavement sections, header cut
13 and grind per the direction of the City Engineer, and 2) Perform R-value testing and
14 submit a study that determines if the existing pavement meets current City standards/traffic
15 indices. Should the study conclude that the pavement does not meet current requirements
16 the Developer shall reconstruct the pavement per these recommendations, subject to
17 approval by the City Engineer.

18 41. Pavement sections for all streets, alleys, driveways and parking areas shall be
19 based upon approved soil tests and traffic indices. The pavement design is to be prepared
20 by the developer's soil engineer and must be approved by the City Engineer, prior to
21 paving.

22 42. Any existing broken pavement, concrete curb, gutter or sidewalk or any
23 damaged during construction of the project, shall be repaired or replaced as directed by the
24 City Engineer.

25 43. All existing overhead utility lines within the development and within any
26 full width street or right-of-way abutting this new development, and all new extension
27 services for the development of the project, including but not limited to, electrical, cable
28 and telephone, shall be placed underground per Section 901.G. of the Subdivision

1 Ordinance (R91-166) and as required by the City Engineer and current City policy.

2 44. The developer shall comply with all the provisions of the City's cable
3 television ordinances including those relating to notification as required by the City
4 Engineer.

5 45. The developer shall install 2 inch PVC conduit, together with 1/4-inch pull-
6 rope and pull-boxes at 400 feet intervals as close as possible to the inside of curb, for future
7 signal interconnect cable on all arterial-level or above, streets.

8 46. Grading and drainage facilities shall be designed and installed to adequately
9 accommodate the local storm water runoff and shall be in accordance with the City's
10 Engineers Manual and as directed by the City Engineer.

11 47. Prior to any grading of any part of the tract or project, a comprehensive soils
12 and geologic investigation shall be conducted of the soils, slopes, and formations in the
13 project. All necessary measures shall be taken and implemented to assure slope stability,
14 erosion control, and soil integrity. No grading shall occur until a detailed grading plan, to
15 be prepared in accordance with the Grading Ordinance and Zoning Ordinance, is approved
16 by the City Engineer.

17 48. This project shall provide year-round erosion control including measures for
18 the site required for the phasing of grading. Prior to the issuance of grading permit, an
19 erosion control plan, designed for all proposed stages of construction, shall be reviewed,
20 secured by the applicant with cash securities and approved by the City Engineer.

21 49. A precise grading and private improvement plan shall be prepared, reviewed,
22 secured and approved prior to the issuance of any building permits. The plan shall reflect
23 all pavement, flatwork, landscaped areas, special surfaces, curbs, gutters, medians, striping,
24 and signage, footprints of all structures, walls, drainage devices and utility services.
25 Parking lot striping and any on site traffic calming devices shall be shown on all Precise
26 Grading and Private Improvement Plans.

27 50. The approval of the tentative map shall not mean that proposed grading or
28 improvements on adjacent properties (including any City properties/Right-of-Way or

1 easements) is granted or guaranteed to the developer. The developer is responsible for
2 obtaining permission to grade or construct on adjacent properties. Should such
3 permission be denied, the Tentative Map shall be subject to SUBSTANTIAL
4 CONFORMITY REVIEW.

5 51. Landscaping plans, including plans for the construction of walls, fences or
6 other structures at or near intersections, must conform to intersection sight distance
7 requirements. Landscape and irrigation plans shall be approved by the City Engineer
8 prior to the issuance of occupancy permits, and a pre-construction meeting held, prior to
9 the start of final improvements. Landscape and irrigation plans for disturbed areas must be
10 submitted to the City Engineer prior to the issuance of a preliminary grading permit and
11 approved by the City Engineer prior to the issuance of final occupancy permits. Frontage
12 and median landscaping shall be installed prior to the issuance of final certificates of
13 occupancy. Any project fences, sound or privacy walls and monument entry walls/signs
14 shall be shown on, bonded for and built from the landscape plans. These features shall also
15 be shown on the precise grading plans for purposes of location only. Plantable, segmental
16 walls shall be designed, reviewed and constructed by the grading plans and
17 landscaped/irrigated through project landscape plans. All plans must be approved by the
18 City Engineer and a pre-construction meeting held, prior to the start of any improvements.

19 52. The drainage design on the tentative map is conceptual only. The final
20 design shall be based upon a hydrologic/hydraulic study to be approved by the City
21 Engineer during final engineering. All drainage picked up in an underground system
22 shall remain underground until it is discharged into an approved channel, or as otherwise
23 approved by the City Engineer. All public storm drains shall be shown on City standard
24 plan and profile sheets. All storm drain easements shall be dedicated where required.
25 The applicant shall be responsible for obtaining any off-site easements for storm
26 drainage facilities.

27 53. Storm drain facilities shall be designed and located such that the inside travel
28 lanes on streets with Collector or above design criteria shall be passable during conditions

1 of a 100-year frequency storm.

2 54. Sediment, silt, grease, trash, debris, and/or pollutants shall be collected on-
3 site and disposed of in accordance with all state and federal requirements, prior to
4 stormwater discharge either off-site or into the City drainage system.

5 55. The development shall comply with all applicable regulations established
6 by the United States Environmental Protection Agency (USEPA) as set forth in the
7 National Pollutant Discharge Elimination System (NPDES) permit requirements for
8 urban runoff and storm water discharge and any regulations adopted by the City
9 pursuant to the NPDES. regulations or requirements. Further, the applicant may be
10 required to file a Notice of Intent with the State Water Resources Control Board to
11 obtain coverage under the NPDES. General Permit for Storm Water Discharges
12 Associated with Construction Activity and may be required to implement a Storm Water
13 Pollution Prevention Plan (SWPPP) concurrent with the commencement of grading
14 activities. SWPPPs include both construction and post construction pollution prevention
15 and pollution control measures and identify funding mechanisms for post construction
16 control measures. The developer shall comply with all the provisions of the Clean Water
17 Program during and after all phases of the development process, including but not
18 limited to: mass grading, rough grading, construction of street and landscaping
19 improvements, and construction of dwelling units. The applicant shall design the
20 Project's storm drains and other drainage facilities to include Best Management Practices
21 to minimize non-point source pollution, satisfactory to the City Engineer.

22 56. The project shall be subject to prevailing wage requirements as specified
23 by applicable California statutes, including California Labor Code section 1720(b) (4).

24 57. The Developer shall prepare and submit an Operations & Maintenance
25 (O&M) Plan to the City Engineer with the first submittal of engineering plans. The
26 O&M Plan shall be prepared by the applicant's Civil Engineer. It shall be directly based
27 on the project's Storm Water Mitigation Plan (SWMP) previously approved by the
28 project's approving authority (Planning Commission/City Council/Community

1 Development Commission). At a minimum the O&M Plan shall include the designated
2 responsible parties to manage the storm water BMP(s), employee's training program and
3 duties, operating schedule, maintenance frequency, routine service schedule, specific
4 maintenance activities, copies of resource agency permits, cost estimate for
5 implementation of the O&M Plan and any other necessary elements.

6 58. The Developer shall enter into a City-Standard Stormwater Facilities
7 Maintenance Agreement with the City obliging the project proponent to maintain, repair
8 and replace the Storm Water Best Management Practices (BMPs) identified in the
9 project's approved Storm Water Mitigation Plan (SWMP), as detailed in the O&M Plan
10 into perpetuity. The Agreement shall be approved by the City Attorney prior to issuance
11 of any precise grading permit and shall be recorded at the County Recorder's Office
12 prior to issuance of any building permit. Security in the form of cash (or certificate of
13 deposit payable to the City) or an irrevocable, City-Standard Letter of Credit shall be
14 required prior to issuance of a precise grading permit. The amount of the security shall
15 be equal to 10 years of maintenance costs, as identified by the O&M Plan. The
16 applicant's Civil Engineer shall prepare the O&M cost estimate.

17 59. At a minimum, maintenance agreements shall require the staff training,
18 inspection and maintenance of all BMPs on an annual basis. The project proponent shall
19 complete and maintain O&M forms to document all maintenance activities. Parties
20 responsible for the O&M plan shall retain records at the subject property for at least 5
21 years. These documents shall be made available to the City for inspection upon request
22 at any time.

23 60. The Agreement shall include a copy of executed onsite and offsite access
24 easements necessary for the operation and maintenance of BMPs that shall be binding on
25 the land throughout the life of the project to the benefit of the party responsible for the
26 O&M of BMPs, until such time that the storm water BMP requiring access is replaced,
27 satisfactory to the City Engineer. The agreement shall also include a copy of the O&M
28 Plan approved by the City Engineer.

1 61. The BMPs described in the project's approved Storm Water Mitigation
2 Plan (SWMP) shall not be altered in any way, shape or form without formal approval by
3 either an Administrative Substantial Conformance issued by the Community
4 Development Department/Planning Division or the project's final approving authority
5 (Planning Commission/Community Development Commission/City Council) at a public
6 hearing. The determination of whatever action is required for changes to a project's
7 approved SWMP shall be made by the Community Development Department/Planning
8 Division.

9 62. The approval of the tentative map/project shall not mean that closure,
10 vacation, or abandonment of any public street, right of way, easement, or facility is
11 granted or guaranteed to the developer. The developer is responsible for applying for all
12 closures, vacations, and abandonments as necessary. The application(s) shall be
13 reviewed and approved or rejected by the City of Oceanside under separate process (es)
14 per codes, ordinances, and policies in effect at the time of the application. The City of
15 Oceanside retains its full legislative discretion to consider any application to vacate a
16 public street or right of way.

17 **Traffic**

18 63. The project shall improve the intersection of Mission Avenue at Horne
19 Street. The improvements shall include widening the south leg of Horne Street to 50
20 feet curb-to-curb, and traffic signal modification associated with the widening. The
21 project shall be reimbursed 71% of the total cost to complete this improvement by the
22 Belvedere and/or CityMark projects, or their successors. If these improvements have
23 already been completed by the other project/s, then this project shall pay their fair share
24 of 29%. These improvements shall be completed prior to certificate of occupancy and to
25 the satisfaction of the City Engineer.

26 64. The project shall install a new traffic signal at the intersection of Mission
27 Avenue at Clementine Street. The project shall be reimbursed 64% of the total cost to
28 complete this improvement by the Belvedere and/or CityMark projects. If the traffic

1 signal has already been installed by the Belvedere and/or CityMark projects, then this
2 project shall pay their fair share of 36%. The traffic signal shall be installed prior to
3 issuance of certificate of occupancy and to the satisfaction of the City Engineer.

4 65. The project shall install a new traffic signal at the intersection of Mission
5 Avenue at Myers Street. The project shall be reimbursed from the CityMark Project for
6 50% of the total cost to install the new traffic signal. If the CityMark project completes
7 this improvement first, then this project shall pay City Mark 50% of the cost of the
8 improvement. The traffic signal shall be installed prior to issuance of certificate of
9 occupancy and to the satisfaction of the City Engineer.

10 66. The project shall install an eastbound to northbound left turn pocket on
11 Mission Avenue at Myers Street. The left turn pocket shall be installed prior to the
12 issuance of certificate of occupancy and to the satisfaction of the City Engineer.

13 67. The project shall install pedestrian gates on each sidewalk along Mission
14 Avenue at the existing railroad crossing.

15 68. The project shall complete full width improvements on Myers Street (40
16 feet curb-to-curb) between Pier View Way and Seagaze Street. This segment of Myers
17 Street shall be a two-way street. These improvements shall be completed prior to the
18 issuance of certificate of occupancy and to the satisfaction of the City Engineer.

19 69. The project shall install a left turn pocket on westbound Mission Avenue
20 for access to their main project driveway on the south block. The left turn pocket shall
21 be back-to-back with the eastbound to northbound left turn pocket on Mission Avenue at
22 Myers and be delineated with a raised concrete median. This improvement shall be
23 completed prior to the issuance of certificate of occupancy and to the satisfaction of the
24 City Engineer.

25 70. The project shall install a new traffic signal at the intersection of Mission
26 Avenue at Cleveland Street. The project shall be reimbursed 69% of the total cost to
27 complete this improvement by other affected development projects. If a new traffic
28 signal has already been installed, then this project shall pay the appropriate development

1 project/s their fair share of 31% of the cost of the new traffic signal. The new traffic
2 signal shall be completed prior to the issuance of certificate of occupancy and to the
3 satisfaction of the City Engineer.

4 71. Prior to the issuance of a grading permit, the project shall prepare a traffic
5 control plan for review and approval by the City of Oceanside. The traffic control plan
6 shall demonstrate how the site access and circulation will be maintained through the
7 construction of the proposed project. The traffic control plan shall include, but not be
8 limited to, the following: identify alternative routes for access to schools, businesses
9 and residents that require the use of the impacted roadways; post signs informing
10 customers of how to access businesses located in the construction area; make every
11 effort to maintain access and parking supply to all businesses along the alignment;
12 require that access to residences and roadways containing residences be maintained
13 whenever construction activities are not immediately adjacent; and if road or lane
14 closures would occur, post signs identifying alternative routes and parking areas.

15 72. Prior to issuance of grading permit, the developer shall prepare a traffic
16 control plan for review and approval by the City Engineer. The traffic control plan shall
17 be based on appropriate engineering analysis for each major phase of construction traffic
18 (e.g. closure of Mission Avenue) and shall demonstrate how site access and circulation
19 will be maintained through the construction of the proposed hotel. The traffic control
20 plan shall include, but not be limited to the following:

- 21 a. Potentially impacted roadways that currently provide access to schools,
22 businesses and residents, the traffic control plan shall identify safe,
23 alternate routes;
- 24 b. Post signs informing customers how to access businesses located in the
25 construction area;
- 26 c. Make every effort to maintain access to all businesses along the
27 construction alignment;
- 28 d. Require that access to roadways serving residences be maintained;

- 1 e. Should a road be temporarily closed, post signs identifying safe,
2 alternative routes.

3 **Fire:**

- 4 73. Fire Department Requirements shall be placed on plans in the notes
5 section.

- 6 74. Smoke detectors are required, and detector locations must be indicated on
7 the plans.

- 8 75. A minimum fire flow of 3,000 gallons per minute shall be required.

- 9 76. Additional hydrants may be required depending upon fire department
10 connection locations and other building elements not shown. Hydrants must be placed
11 within 300-feet of each other.

- 12 77. The size of the fire hydrants shall be 2 ½ "X 4".

- 13 78. In accordance with the California Fire Code Sec. 901.4.4, City approved
14 addresses for commercial occupancies shall be placed on the structure in such a position
15 as to be plainly visible and legible from the street or roadway fronting the property.
16 Numbers shall be contrasting with their background.

- 17 79. Commercial buildings require 6 inch address numbers.

- 18 80. Plans shall be submitted to the Fire Prevention Bureau for plan check
19 review and approval prior to the issuance of building permits.

- 20 81. Buildings shall meet Oceanside Fire Departments current codes at the time
21 of building permit application.

- 22 82. The fire hydrants shall be installed and tested prior to placing any
23 combustible materials on the job site.

- 24 83. Provide on-site hydrants and mains capable of supplying the required fire
25 flow.

- 26 84. Detailed plans of underground fire service mains shall be submitted to the
27 Oceanside Fire Department for approval prior to installation.

- 28 85. Blue hydrant identification markers shall be placed as per Oceanside's

1 Engineers Design and Processing Manual Standard Drawing No. M-13.

2 86. Provide standpipes as required per C.B.C. Table 9A.

3 87. Buildings four or more stories in height shall be provided with not less
4 than one standpipe during construction. The standpipe shall be installed before the
5 progress of construction is more than 35 feet above grade. Two and one-half inch valve
6 hose connections shall be provided at approved accessible locations adjacent to useable
7 stairs.

8 88. A "Knox" key storage box shall be provided for all new construction. For
9 buildings, other than high-rise, a minimum of three complete sets of keys shall be
10 provided. Keys shall be provided for all exterior entry doors, fire protection equipment
11 control rooms, mechanical and electrical rooms, elevator controls and equipment spaces,
12 etc. For high-rise buildings six complete sets are required.

13 89. Fire extinguishers are required and shall be included on the plans
14 submitted for plan check.

15 90. An automatic fire extinguisher system complying with UL300 shall be
16 provided to protect commercial-type cooking or heating equipment that produces grease-
17 laden vapors. A separate plan submittal is required for the installation of the system and
18 shall be in accordance with C.F.C. Article 10.

19 91. Provide a class "K" type portable fire extinguisher within 30-feet of the
20 kitchen appliances emitting grease-laden vapors (N.F.P.A 17A and N.F.P.A. 96).

21 92. An approved fire sprinkler system must be installed throughout the
22 building. The system shall be designed per N.F.P.A. 13, and CBC 2007. The sprinkler
23 system required 24-hour supervision.

24 93. The hydrants must be located within 40-feet of the Fire Department
25 connections on the same side of the street.

26 94. Provide a fire alarm system as required per C.F.C. Article 10 and N.F.P.A.

27 95. An 800mHz Radio Signal Interference/ Bi-directional Amplifier (BDA) is
28 required for the buildings. The BDA/coverage enhancers must be maintained as a

1 condition of occupancy and tested annually.

2 **Economic & Community Development:**

3 96. This Tentative Map (T-204-06), Development Plan (D-213-06),
4 Conditional Use Permit (C-208-06) and Regular Coastal Permit (RC-215-06) shall
5 expire on January 16, 2010, unless implemented as required by the Zoning Ordinance.

6 97. This Tentative Map, Development Plan, Conditional Use Permit and
7 Regular Coastal Permit approves only the construction of a 336-unit hotel and 48-unit
8 fractional timeshares and 18,500 square feet of commercial uses as shown on the plans
9 and exhibits presented to the Community Development Commission for review and
10 approval. No deviation from these approved plans and exhibits shall occur without
11 Economic and Community Development Department approval. Minor deviations from
12 the project approval may be approved through the Substantial Conformity Guidelines
13 process; substantial deviations shall require a revision to the Tentative Map,
14 Development Plan, and Conditional Use Permit and Regular Coastal Permit or a new
15 Tentative Map, Development Plan, Conditional Use Permit and Regular Coastal Permit.
16 This approval does not preclude the applicant from seeking approval of the appropriate
17 entitlements for condo hotel units, so long as the combination of fractional timeshares
18 and condo hotel units, do not exceed 25% of the total number of units in the project. At
19 no time shall the fractional timeshare units exceed 15% of the total number of units
20 within the project. Any such revision shall require a noticed, public hearing before the
21 CDC. No revision to allow condo hotel uses shall be approved by the CDC unless the
22 proposal conforms to the applicable provisions of the Local Coastal Plan and all
23 applicable provisions of the City's planning and zoning regulations.

24 98. The applicant, permittee or any successor-in-interest shall defend,
25 indemnify and hold harmless the City of Oceanside, its agents, officers or employees
26 from any claim, action or proceeding against the City, its agents, officers, or employees
27 to attack, set aside, void or annul an approval of the City, concerning Tentative Map (T-
28 204-06), Development Plan (D-213-06), Conditional Use Permit (C-208-06) and

1 Regular Coastal Permit (RC-215-06). The City will promptly notify the applicant of any
2 such claim, action or proceeding against the City and will cooperate fully in the defense.
3 If the City fails to promptly notify the applicant of any such claim action or proceeding
4 or fails to cooperate fully in the defense, the applicant shall not, thereafter, be
5 responsible to defend, indemnify or hold harmless the City.

6 99. All mechanical rooftop and ground equipment shall be screened from
7 public view as required by the Zoning Ordinance. That is, on all four sides and top. The
8 roof jacks, mechanical equipment, screen and vents shall be painted with non-reflective
9 paint to match the roof. This information shall be shown on the building plans.

10 100. Landscape plans, meeting the criteria of the City's Landscape Guidelines
11 and Water Conservation Ordinance No. 91-15, including the maintenance of such
12 landscaping, shall be reviewed and approved by the City Engineer and City Planner prior
13 to the issuance of building permits. Landscaping shall not be installed until bonds have
14 been posted, fees paid, and plans signed for final approval.

15 101. All landscaping, fences, walls, etc. on the site, in medians in the public
16 right-of-way and in any adjoining public parkways shall be permanently maintained by
17 the owner, his assigns or any successors in interest in the property. The maintenance
18 program shall include normal care and irrigation of the landscaping; repair and
19 replacement of plant materials; irrigation systems as necessary; and general cleanup of
20 the landscaped and open areas, parking lots and walkways, walls, fences, etc. Failure to
21 maintain landscaping shall result in the City taking all appropriate enforcement actions
22 by all acceptable means including but not limited to citations and/or actual work with
23 costs charged to or recorded against the owner. This condition shall be recorded with
24 the covenant required by this resolution.

25 102. All commercial projects shall dispose of or recycle solid waste in a manner
26 provided in City Ordinance 13.3.

27 103. A letter of clearance from the affected school district in which the property
28 is located shall be provided as required by City policy at the time building permits are

1 issued.

2 104. A covenant or other recordable document approved by the City Attorney
3 shall be prepared by the applicant developer and recorded prior to the issuance of
4 building permits. The covenant shall provide that the property is subject to this
5 resolution, and shall generally list the conditions of approval. This covenant shall
6 include a disclosure notifying prospective owners and interested parties of the adverse
7 effects of the noise from the amphitheater events on guests inside the resort.

8 105. Prior to the issuance of building permits, compliance with the applicable
9 provisions of the City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City
10 Code) shall be reviewed and approved by the Economic and Community Development
11 Department. These requirements, including the obligation to remove or cover with
12 matching paint all graffiti within 24 hours, shall be noted on the Landscape Plan and
13 shall be recorded in the form of a covenant affecting the subject property.

14 106. Prior to the transfer of ownership and/or operation of the site the owner
15 shall provide a written copy of the applications, staff report and resolutions for the
16 project to the new owner and or operator.

17 107. Failure to meet any conditions of approval for this development shall
18 constitute a violation of the Tentative Map (T-204-06), Development Plan (D-213-06)
19 Conditional Use Permit (C-208-06) and Regular Coastal Permit (RC-215-06). Any
20 action taken to revoke the Development Plan, Conditional Use Permit and Regular
21 Coastal Permit shall comply with the then applicable provisions of the Oceanside Zoning
22 Ordinance.

23 108. All applicable zoning standards and City ordinances and policies in effect
24 at the time building permits are issued are required to be met by this project. The
25 approval of this project constitutes the applicant's agreement with all statements in the
26 Description and Justification, and other materials and information submitted with this
27 application, unless specifically waived by an adopted condition of approval.

28 109. Elevations, siding materials, colors, roofing materials and floor plans shall

1 be substantially the same as those approved by the Community Development
2 Commission. These shall be shown on plans submitted to the Building Division and
3 Economic and Community Development Department.

4 110. A trash enclosure must be provided as required by Chapter 13 of the City
5 Code and shall also include additional space for storage and collection of recyclable
6 materials per City standards. Recycling is required by City Ordinance. The enclosure must
7 be built in a flat, accessible location as determined by the City Engineer. All driveways and
8 service access areas must be designed to sustain the weight of a 50,000-pound service
9 vehicle. Trash enclosures, driveways and service access areas shall be shown on both the
10 improvement and landscape plans submitted to the City Engineer. The specifications shall
11 be reviewed and approved by the City Engineer. The City's waste disposal contractor is
12 required to access private property to service the trash enclosures. A service agreement
13 must be signed by the property owner and shall remain in effect for the life of the project.
14 All trash enclosures shall be designed to provide user access without the use and opening
15 of the service doors for the bins. Trash enclosures shall have design features such as
16 materials and trim similar to that of the rest of the project. This design shall be shown on
17 the landscape plans and shall be approved by the Economic and Community Development
18 Director.

19 111. The project shall prepare a Management Plan. The Management Plan is
20 subject to the review and approval of the Economic and Community Development Director
21 and the Police Chief prior to the occupancy of the project, and shall be recorded as CC&R's
22 against the property. The Management Plan shall cover the following:

- 23 a) Security - The Management Plan, at a minimum, shall address on-site
24 management, hours-of-operation and measures for providing
25 appropriate security for the project site.
- 26 b) Maintenance - The Management Plan shall cover, but not be limited
27 to anti-graffiti and site and exterior building, landscaping, parking
28 lots, sidewalks, walkways and overall site maintenance measures and

1 shall ensure that a high standard of maintenance at this site exists at
2 all times. The maintenance portion of the management plan shall
3 include a commitment for the sweeping and cleaning of parking lots,
4 sidewalks and other concrete surfaces at sufficient intervals to
5 maintain a "like new" appearance. Wastewater, sediment, trash or
6 other pollutants shall be collected on site and properly disposed of and
7 shall not be discharged off the property or into the City's storm drain
8 system.

- 9 c) Any graffiti within the resort shall be removed by management or its
10 designated representative within 24 hours of occurrence. Any new
11 paint used to cover graffiti shall match the existing color scheme.

12 112. A Comprehensive Sign Program (CSP) shall be submitted to the Economic
13 & Community Development Department and approved prior to the issuance of sign
14 permits.

15 113. A private Maintenance Agreement (MA) shall provide for the maintenance
16 of the adjacent parkways and common area and shall be recorded against this property
17 prior to recordation of the Final Map. The maintenance shall include normal care and
18 irrigation of landscaping, repair and replacement of plant material and irrigation systems
19 as necessary; and general cleanup of the parkway. The MA shall be subject to the
20 review and approval of the City Attorney prior to the approval of the final map. The
21 MA is required to be recorded prior to or concurrently with the final map. Any
22 amendments to the MA in which the owners relinquish responsibility for the
23 maintenance of any common open space shall not be permitted without the
24 prior written approval of the City of Oceanside. Such a clause shall be included in the
25 MA. The MA shall also contain provisions for the following:

- 26 a) Maintenance of all common areas, parkway, and on-site and frontage
27 landscaping.

28 114. The project shall comply with all applicable provisions of the City of

Oceanside General Plan, the Oceanside City Code, the Local Coastal Program, the Zoning Ordinance, the Subdivision Ordinance and the Nine Block Master Plan. The applicant shall comply with all applicable provisions of Local Coastal Plan Amendment (LCPA-200-07), as it is finally approved.

115. The final map for the fractional timeshares or condo hotel units shall not be recorded prior to the final approval of the Local Coastal Plan Amendment (LCPA-200-07) authorizing such uses.

Water Utilities:

116. Myers Street gravity sewer replacement fees shall apply to this project. The sewer replacement fees are \$271.98 per foot, per side of street. Myers Street gravity sewer replacement fees shall apply to this project.

117. Show and clearly indicate all existing and proposed utilities on the tentative map.

118. A water and sewer study must be prepared by the developer at the developer's expense, and reviewed and approved by the Water Utilities Department.

119. All public water and/or sewer facilities not located within the public right-of-way shall be provided with easements sized according to the most recent edition of the Water, Sewer, and Reclaimed Water Design and Construction Manual. Easements shall be constructed for all weather access.

120. No trees, structures or building overhang shall be located within any water or wastewater utility easement.

121. The property owner will maintain private water and wastewater utilities located on private property.

122. A separate irrigation meter and approved backflow prevention device is required for each block.

123. Water services and sewer laterals constructed in existing right-of-way locations are to be constructed by approved and licensed contractors at developer's expense.

1 124. The developer will be responsible for developing all water and sewer
2 utilities necessary to develop the property. Any relocation of water and/or sewer utilities
3 is the responsibility of the developer and shall be done by an approved licensed
4 contractor at the developer's expense.

5 125. All lots with a finish pad elevation located below the elevation of the next
6 upstream manhole cover of the public sewer shall be protected from backflow of sewage
7 by installing and maintaining an approved type backwater valve, per the Uniform
8 Plumbing Code (U.P.C.).

9 126. An Inspection Manhole, described by the Water, Sewer, and Reclaimed
10 Water Design and Construction Manual, shall be installed in each building sewer lateral
11 and the location shall be called out on the approved Improvement Plans.

12 127. A Grease, Oil, and Sand Interceptor, described by the Uniform Plumbing
13 Code, relating to garages and wash racks shall be installed in each building sewer in an
14 appropriate location and shall be maintained by the property owner. The location shall
15 be called out on the approved Improvement Plans.

16 128. A Grease Interceptor, described by the Uniform Plumbing Code, relating
17 to restaurants, shall be installed in each building sewer in an appropriate location and
18 shall be maintained by the property owner. The location shall be called out on the
19 approved Building Plans.

20 129. Subterranean parking spaces shall be drained to the City's Storm Drain
21 System and shall comply with the California Regional Water Quality Control Board
22 Order No. 2001-01.

23 130. Water and Wastewater Buy-in fees and the San Diego County Water
24 Authority Fees are to be paid to the City and collected by the Water Utilities Department
25 at the time of Building Permit issuance.

26 131. All Water and Wastewater construction shall conform to the most recent
27 edition of the Water, Sewer, and Reclaimed Water Design and Construction Manual.

28 **Environmental:**

1 132. All mitigation measures identified in the approved Final Environmental
2 Impact Report and Mitigation and Monitoring Reporting Program (MMRP) shall be
3 complied with as stated in those documents. The Resolution Certifying the Final
4 Environmental Impact Report and Adoption of the MMRP, the Findings and Statement
5 of Overriding Considerations shall be recorded by a covenant or other recordable
6 document approved by the City Attorney and shall be recorded prior to the issuance of
7 building permits. The covenant shall provide that the property is subject to this
8 resolution, and shall generally list the MMRP condition.

9 ///

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4421
(619) 767-2370



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing
This Form.

SECTION I. Appellant

Name, mailing address and telephone number of appellant:

Citizens for the Preservation of Parks & Beaches
904 Leonard Ave, Oceanside CA 92054
Shari Mackin (760) 433-9899
Zip Carolyn Kramer Area Code (760) 439-0863 Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Oceanside
2. Brief description of development being appealed: T-204-06, D-213-06, C-208-06, RC-215-06
Hotel, Fractional timeshares,
3. Development's location (street address, assessor's parcel no., cross street, etc.): Pacific Street between Seagaze Dr + Pier View Way
APN 147-076-01-03 + 147-079-10-18
4. Description of decision being appealed:
 - a. Approval; no special conditions: _____
 - b. Approval with special conditions: T-204-06, D-213-06, C-208-06
RC-215-06
 - c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-6-CCN-CG-072

DATE FILED: 8/7/08

DISTRICT: San Diego

RECEIVED

AUG 07 2008

CALIFORNIA
COASTAL COMMISSION
SAN DIEGO COAST DISTRICT

EXHIBIT NO. 4
APPLICATION NO.
A-6-OCN-08-072
Appeal form and attached letter
1 of 8 pages
California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. ☐ Planning Director/Zoning Administrator c. ☐ Planning Commission
- b. ☒ City Council/Board of Supervisors d. ☐ Other _____

6. Date of local government's decision: _____

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

SD Malkin
835 5th Avenue, Suite 401, San Diego, CA 92101

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) City of Oceanside - Planning + Redevelopment
300 N. Coast Hwy
Oceanside, CA 92054

(2) Marco Gonzalez, Surfrider
c/o Coast Law Group
169 Saxony, Encinitas, CA 92024

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my knowledge.

Signed C.P.P.B. - Carolyn Krommer Shau Machin
Appellant or Agent

Date 8/6/08

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed _____
Appellant

Date _____

0016F

Citizens for the Preservation of Parks and Beaches

October 13, 2007

Coastal Commission
San Diego Coast District Office
7575 Metropolitan Drive Ste 103
San Diego, CA 92108-4402
Attn: Toni Ross – Planner
RE: Oceanside Beach Resort – appeal attachment

The proposed Oceanside Beach Resort is inconsistent with the Coastal Act and the City of Oceanside's Local Coastal Plan. The City of Oceanside's LCP, in conjunction with the Coastal Act, is required to protect public access to and along the shoreline and provide that "any project which diminishes access shall not be permitted" (Policy 1 of the Development and Public Works section of the LCP as amended 1995).

The project as proposed diminishes beach access and should not be approved until such time (1) that the public beach parking removed by the project is replaced in its entirety, and (2) when the project can provide all hotel use parking on site and not encroach upon the public beach parking replacement parking (40 spaces) in the proposed City-owned and operated off-site public parking lot located between Tyson Street and Wisconsin Avenue.

The EIR states:

4.8.3 IMPACT SIGNIFICANCE CRITERIA

The proposed project would have a significant effect on land use if it would result in the following:

- A substantial conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect;

IMPACT ANALYSIS

4.8.4 ISSUES 1 AND 2 – LAND USE PLAN, POLICY, AND REGULATION CONSISTENCY

The project would result in a substantial conflict with LCP and Coastal Act policy. The proposed project is not consistent with the goals and objectives of the City of Oceanside LCP, which was certified by the California Coastal Commission (CCC) in July 1985 due to the lack of replacement beach parking (see below):

Policy 12: If existing beach parking is removed for any reason, one-to-one replacement parking shall be provided west of the railroad right-of-way.

According to the EIR:

"The proposed project would remove up to 33 street parking spaces. The North Block currently provides 75 parking spaces; however, this is a temporary parking

2 Comments: Oceanside Beach Resort

lot for the construction of the adjacent Oceanside Pier Resort (Wyndham) project to the north. This parking will be replaced by that project once construction is finished. Based on the project land uses and required replacement of public parking spaces, the project is required to provide approximately 580 parking spaces. The project proposes to provide up to 540 parking spaces in a two level subterranean garage. The additional 40 parking spaces would be provided in a future City-owned and operated off-site public parking lot located between Tyson Street and Wisconsin Avenue. However, because the timing of construction of the off-site City-owned public parking lot can not be guaranteed prior to the loss of public parking as a result of the proposed project, a significant impact would occur. Therefore, the proposed project would conflict with Policy 12." (EIR)

CALIFORNIA COASTAL ACT.

According to the EIR for the project, *"The proposed project would have a significant effect on land use if it would result in the following: A Substantial conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect..."* (4.8-15)

California Coastal Act and Local Coastal Program (4.8-19)

The proposed project proposes to replace the displaced public parking spaces in an off-site City-owned parking lot. However, because the timing of construction of this parking lot, such replacement parking cannot be guaranteed prior to the loss of the public parking spaces. Further this parking lot has already anticipated full usage by the public without consideration of this project's needs. In other words, the hotel displaced parking would be competing with the public's right to use the City-owned lot for beach parking access. The proposed project will result in a conflict with present LCP policy regarding replacement of public beach parking. Additionally, no mention has been made as to what the cost for public parking in the hotel subterranean parking lot will be to the beach goer, and who will regulate the fees and access to the public beach parking located within the subterranean parking lot.

4.11: Recreational Resources:

The Coastal Act and the LCP states, "Lower cost visitor and recreational facilities shall be protected, encouraged and, where possible, provided." (LCP Recreation and Visitor Serving, 6, pg 9). The City of Oceanside has the opportunity to increase lower cost visitor serving uses along the beach; however, should the hotel take 40 public parking spaces at the proposed site between Tyson Street and Wisconsin Avenue, access to lower cost visitor serving uses will be diminished as the hotel is considered a high-cost visitor serving use.

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TABLE 4.8-4: Relevant City of Oceanside Local Coastal Program Objectives and Proposed Project Consistency (4.8-20):

LCP Policy 12 states, "If existing beach parking is removed for any reason, one-to-one replacement shall be provided west of the railroad right-of-way." The project's environmental report states, "Prior to the issuance of the grading permit or removal of any on-street public parking spaces, the developer(s)/builder(s) shall pay a fair share contribution for the physical construction of approximately 40 public parking spaces to the City for construction of a new public parking lot located between Tyson Street and Wisconsin Avenue west of the NCTD railroad tracks" (4.8-22). The city has failed to address when the one-to-one replacement will be provided and the cumulative effects to beach goers (parking) should the parking not be replaced prior to the CityMark project receiving development approvals.

5.1: CUMULATIVE IMPACTS ON BEACH PARKING

"Section 15130 of the CEQA Guidelines requires that an EIR address the cumulative impacts of a project when the project's incremental effect would be cumulatively considerable. Cumulatively considerable means that the incremental effects of an individual project would be considerable when viewed in connection with the effects of past, current, or probable future projects. A cumulative effect not deemed considerable if the effect would be essentially the same whether the proposed project is implemented or not" (5-1). LCP Policy 12 states, "If existing beach parking is removed for any reason, one-to-one replacement shall be provided west of the railroad right-of-way."

In coastal communities like Oceanside there is no access to the beach without providing parking within a reasonable distance to the beach. This has been a problem in Oceanside because the development of the downtown and redevelopment area has not provided for adequate parking, in effect, squeezing out potential parking for beachgoers.

This really became a significant issue downtown with the development of the McMillan project (movie theater). The city waived all parking for this 16-screen theater with hundreds of seats. The theater is located within the coastal zone (one block west of the Pacific Coast Hwy, and the second block east of the railroad line). Instead of providing parking for the theater, the developer was allowed to claim, "shared use" within the beach parking lots- three temporary lots located between downtown and the beach. In doing so, beach parking has been compromised since the opening of the movie theater. The beach parking shortage was made worse with the subsequent addition of Phase II of the Ocean Place project (one block west of the McMillan project). This project proposed (and has been permitted to use) the State Grant Funded Transit Parking Structure for "residential shared use" parking. The parking structure was constructed with state grant funds and is required to be used for *transit* uses (State of California Department of Transportation, Mass Transportation Program—

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Program Supplement/Amendment State Funded Transit Projects (11/1/2005); therefore, this structure can not be considered as a structure available for use for "beach goers" and is east of the rail line.

In effect the theater project and Ocean Place II both displaced beach parking- and part of this displacement was in temporary lots with no permanent parking provision, with the proposed hotel, more beach parking will be lost.

The city has allowed projects to be built without requiring the required parking just outside of the appealable zone in order to facilitate development in the redevelopment area. There is a huge conflict between beach parking and the downtown merchant parking. This is a cumulative impact to beach access that continues to get worse as projects move forward in the downtown and redevelopment areas. Until there is a real plan to address all parking requirements in this area including the theaters, downtown, redevelopment area, and the beach, parking will only become worse- squeezing out beach parking.

The DEIR did not properly evaluate the cumulative loss of beach parking and how this project will further impact this.

Even though our LCP, Section: Parking, 17 page 11 states, "The City shall require that all new residential development provides adequate on-site parking. In areas where beach parking demand is critical, parking requirements for new residential development shall be strictly enforced.....", we have seen, with the approvals of the McMillan project (the underground parking requirement was altogether waived), and recently with the development of Ocean Place II (mainly residential), parking requirements have not been strictly enforced, and therefore creates a conflict with the Local Coastal Plan.


SUMMARY:

The Coastal Act insures beach access to all residents of the State of California to California's beaches and our Local Coastal Plan mandates one-for-one parking replacement west of the rail line. The project is in violation of the Coastal Act and the Local Coastal Plan. This project proposes to take 40 parking spaces away from the beach going public (downtown), and replaces it at a "later date" (not yet to be determined) in a parking lot south of this area adjacent to the rail line. The newly created parking lot should be used for beach parking replacement parking; however, the hotel proposes to use (and counts 40 of the parking spaces to be constructed in the EIR as hotel parking) the parking lot as parking for the hotel rather than for strictly beach parking in an area where a new vertical beach access has been built and the demand for parking—high. The proposed parking lot has already anticipated full usage by the public without consideration of this project's needs. In other words, the hotel displaced parking would be competing with the public's right to use the City-owned lot for beach parking access.

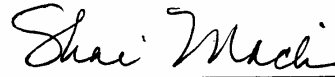
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We respectfully request that the Commission deny the permit until such time (1) that the public beach parking removed by the project is replaced in its entirety, and (2) when the project can provide all hotel use parking on site and not encroach upon the public beach parking replacement parking (40 spaces) in the *proposed* City-owned and operated off-site public parking lot located between Tyson Street and Wisconsin Avenue.

Respectfully,



Carolyn Krammer



Shari Mackin

Citizens for the Preservation of Parks and Beaches

cc: files
Coastal Commission
ORCA
Coast Law
Sierra Club

